

RESOLUTION NO. 2019-04

**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE RIVIERA BEACH COMMUNITY REDEVELOPMENT AGENCY ("AGENCY"), AUTHORIZING THE EXECUTION OF A CONTRACT FOR PROFESSIONAL ARCHITECTURAL SERVICES WITH REG ARCHITECTS, INC. TO PROVIDE ARCHITECTURAL DESIGN AND CONSTRUCTION DOCUMENTS FOR THE REDEVELOPMENT OF AGENCY PROPERTY LOCATED AT 2600 BROADWAY IN THE AMOUNT NOT TO EXCEED \$246,250.00 PLUS A NINE PERCENT (9%) CONTINGENCY FOR A TOTAL OF \$268,412.00; DIRECTING AND AUTHORIZING THE CHAIRMAN AND EXECUTIVE DIRECTOR TO TAKE SUCH ACTION AS SHALL BE NECESSARY AND CONSISTENT TO CARRY OUT THE INTENT AND DESIRES OF THE AGENCY; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Agency is responsible for carrying out community redevelopment activities and projects in the community redevelopment area of the City of Riviera Beach; and

**WHEREAS**, the CRA needs professional services to provide architectural design and construction documents for the redevelopment of Agency property located at 2600 Broadway; and

**WHEREAS**, REG Architect, Inc., was selected by the City of Riviera Beach through a competitive process to provide professional architectural services and entered into a continuing services contract dated July 5, 2017; and

**WHEREAS**, the Riviera Beach Community Redevelopment Agency's Procurement Policies and Procedures provide that the Agency may utilize other government contracts to provide services; and

**WHEREAS**, the ARCHITECT desires to provide professional architectural services to the Agency and the Agency desires to engage the services of the ARCHITECT as set forth herein.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE RIVIERA BEACH COMMUNITY REDEVELOPMENT AGENCY as follows:**

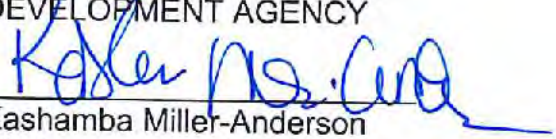
**SECTION 1.** The Board of Commissioners of the Riviera Beach Community Redevelopment Agency hereby approves the attached Professional Service Agreement between REG Architect, Inc. and the Agency for architectural design and construction documents for the redevelopment of Agency property located at 2600 Broadway in an amount not to exceed \$268,412.00.

**SECTION 2.** The Chair and the Executive Director are hereby authorized and directed to execute and attest, respectively, that certain Professional Service Agreement and scope of services substantially in the form attached hereto as Exhibit "A" subject to such changes as may be approved by the Chairperson subject to advice of counsel, with the execution of the Agreement by the Chairperson conclusive evidence of the approval of such changes.

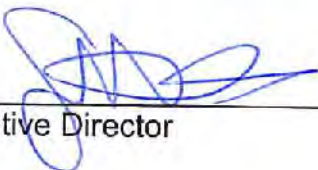
**SECTION 3.** This resolution shall be effective immediately upon its adoption.

**PASSED AND ADOPTED** this 24<sup>th</sup> day of April, 2019.

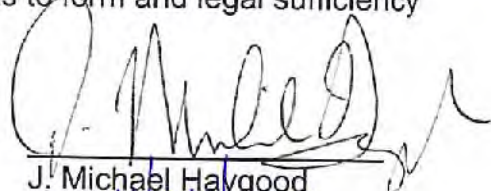
RIVIERA BEACH COMMUNITY  
REDEVELOPMENT AGENCY

By:   
Kashamba Miller-Anderson  
Chairperson

ATTEST:

  
\_\_\_\_\_  
Executive Director

Approved as to form and legal sufficiency



J. Michael Haygood  
Date 4/24/2019  
J. Michael Haygood, PA  
General Counsel to CRA

MOTION BY: J. Botel

SECONDED BY: T. McCoy

J. BOTEL	<u>Aye</u>
K. MILLER-ANDERSON	<u>Aye</u>
T. McCOY	<u>Aye</u>
S. LANIER	<u>Aye</u>
D. LAWSON	<u>Aye</u>




Florida's Dynamic  
Waterfront Community

2001 BROADWAY, SUITE 300  
RIVIERA BEACH, FL 33404  
Phone: 561-844-3408  
Fax: 561-881-8043  
Website: www.rbcra.com

## MEMORANDUM

**TO:** Honorable Chair and Members, CRA Board of Commissioners  
City of Riviera Beach, Florida

**FROM:**  Scott Evans  
Interim Executive Director, CRA

**COPY:** J. Michael Haygood, CRA Attorney

**DATE:** May 1, 2019

**SUBJECT:** A Resolution Approving a Contract with the Engineering Firm Chen Moore & Associates to Continue to Provide Consulting Engineering Services to Coordinate the US-1 Corridor Utility Burial Project

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### Project Summary:

A resolution approving a contract with the Engineering firm Chen Moore & Associates to continue to provide consulting engineering services to coordinate the US-1 Corridor Utility Burial Project.

The Riviera Beach CRA has been actively proceeding with installing underground utility lines to beautify the US1 Corridor (the Project) within the Community Redevelopment Area. The CRA, as part of the long-range plan and capital improvements for the Broadway Corridor and the Marina District, has embarked on the infrastructure improvement that will remove all overhead facilities in designated phases. Installing underground lines will beautify the US-1 Corridor and will protect/harden the utility services.

The installation is being done in coordination with an ongoing Florida Department of Transportation (FDOT) US1 construction project to provide new decorative street lighting along the east side of Broadway between 11<sup>th</sup> Ave and Blue Heron Blvd. The CRA will be responsible for all payments for the installation of the utilities and additional restoration associated with the utility relocations. The costs will be minimized if this installation occurs in coordination with, and prior to, installation of the FDOT street lighting project.

### **Project Coordination & Status:**

CRA has initiated coordination with all effected utilities to develop engineering designs, cost estimates, identify easements and procure contracts with each utility for the relocation of their above utility lines. To-date, efforts include execution of Resolution 2013-20 for construction activities related to Phase 1 of the utility relocations. Phase 1 completed undergrounding of the following utilities: Level 3, Fiber Light Equipment and Fiber Net.

Phase II of the utility coordination includes relocation of Florida Power & Light (FPL), AT&T and Comcast facilities. To effectuate this work the CRA must coordinate between the utilities to complete a final relocation design, assist in easement acquisitions where land is required for facilities, procure utility relocation contracts from the FPL, Comcast and AT&T and coordinate service connections to the effected customers. The CRA is working expeditiously with the affected local Utility providers, our project consultants Chen Moore & Associates, and KCK Consultants.

The Utility companies that need to be relocated require FDOT permits to construct the buried utilities within the FDOT Right-Of-Way. The FDOT will review the construction plans, agree to the construction schedule, issue a permit for approved utility burial work, and inspect to ensure correct completion of the work. The affected utility companies can only proceed with the subject utility burial work once they have received a permit from FDOT. The utilities have approved franchise agreements to work within the State of Florida and the City of Riviera Beach, and are certified to construct their facilities in order to provide their utility services with in the State. They are further approved by FDOT to work within FDOT Right of Way in Florida for properly permitted utility construction. CRA consulting engineer Chen Moore & Associates has coordinated the proposed undergrounding project with all parties to accelerate the effort so it can take place within the current FDOT roadway reconstruction project. The CRA will contract for payment directly with FPL, AT&T and Comcast who will design, construct and maintain their underground facilities in accordance with permits reviewed and approved by FDOT. The CRA will be responsible for all payments for the installation of the utilities and site restoration in accordance with the approved cost proposals from both utilities. The budget will be administered during construction activities with all backup being provided to the CRA regarding quantities, activities and expenditures.

### **Project Schedule:**

Date	Task	Description
Summer 2019	Initiate FPL Final Design	CRA will provide a deposit to FPL to initiate relocation design. CRA to coordinate with FPL during design to confirm easement locations.
Fall 2019/Early 2020	Complete FPL Final Design	Final Design Completed, Approval of Contracts with FPL & AT&T, Final Easements Secured. Begin FDOT permitting process.

Fall 2019/Early 2020	Initiate AT&T Utility Burial Design	Initiate AT&T Final Design. AT&T will require Final Design from FPL prior to completing their design.
Summer 2020	Initiate Construction for Removal of Overhead Power lines	FPL will commence construction. AT&T should follow or coordinate with FPL to underground their facilities in conjunction with FPL construction.
Summer 2021	Complete Construction	New business connections completed and underground system energized.

### Project Budget:

Phase I of the project has been completed for installation of Level 3, Fiber Light Equipment and Fiber Net utilities. This work was previously authorized under Resolution 2013-20 at a total cost of \$811,776.35. In addition to work associated with the Phase I relocations, significant coordination has been performed to advance the FPL, AT&T and Comcast Final Design. CRA, with the assistance of Chen Moore & Associates, has worked to identify facilities and receive tentative approval for easement acquisitions associated with above-ground service panels, transformers and other facilities required for the underground relocations. Additional budget is necessary to:

- complete the coordination and easement acquisition from effected private landowners,
- contract with FPL, AT&T and Comcast for the design, construction and maintenance of underground relocations
- coordinate the design and installation/relocation of utility customers' service lines to the relocation underground facilities.

The final budget to complete Phase II of the project will be estimated when the final quotes from the utilities are provided. An updated estimate will be provided once available. A breakdown of these costs has been provided in the table below. The CRA estimates the total cost over the next three budget years to equal 2.5 million dollars.

Phase II (East Side Burial)	Status	Cost Estimate
AT&T	Pending Design and Permit	TBD
FPL	Pending Design and Permit	TBD
Project Design and Coordination	Chen Moore	\$98,040.00
Other	Contingency, Miscellaneous	\$100,000
<b>TOTAL ESTIMATE:</b>		<b>TBD</b>

### Transformation of the Broadway Corridor:

The Broadway/US-1 Corridor has recently completed reconstruction by the Florida Department of Transportation for the new roadway, sidewalks, decorative crosswalks, new traffic lights, banner arms for a CRA Banner program, new landscaped median, and additional landscaping. New decorative street lighting was placed on the west side of the Broadway corridor. The burial

of the overhead utilities will coincide with the schedule for construction of the east side decorative lighting to be installed by FDOT.

#### **Utility Project Phasing Details and Schedule:**

This project is scheduled to be complete by Summer of 2021. It is in the best interest of the CRA to implement the undergrounding of the utility lines prior to the FDOT project for installation of the decorative street lighting along the east side of the Broadway corridor.

#### **Florida Power & Light:**

- Cost: Underground burial and relocation of equipment and services, removal of all overhead wires and poles, and customer reconnection. FPL will provide the CRA with the deposit amount to initiate design. A binding cost estimate will then be provided to the CRA once final design is completed.
- Permitting: The Final design will require FDOT permits to construct. Final design will proceed following the completion and recording of easements.
- Schedule: FPL will complete the design and contract to perform the work with the CRA in Fall of 2019 to beginning of 2020. Construction will begin in the Summer of 2020 and the project will be completed approximately one year later with the removal of the poles and unused overhead lines in the Summer of 2021.

#### **AT&T**

- Cost: Underground burial and relocation of equipment and services, removal of all overhead wires and poles, and customer reconnection. Cost will be determined once a final design is complete.
- Permitting: AT&T is currently designing the project, the project requires easements that have been located, and approved by AT&T. Final design will proceed following the completion and recording of easements.
- Schedule: AT&T will begin the design once there is clarity on the FPL design. AT&T will not complete final design until after completion of the FPL design. Construction should be able to be coordination with the FPL work to begin in conjunction with or soon after FPL construction.  
AT&T should be completed by Summer 2021.

# AIA<sup>®</sup> Document B101<sup>™</sup> – 2017

## ***Standard Form of Agreement Between Owner and Architect***

AGREEMENT made as of the 2nd day of April in the year 2019  
*(In words, indicate day, month and year.)*

**BETWEEN** the Architect's client identified as the Owner:  
*(Name, legal status, address and other information)*

Riviera Beach Community Redevelopment Agency  
2001 Broadway, Suite 300  
Riviera Beach, FL 33404

and the Architect:  
*(Name, legal status, address and other information)*

REG Architects, Inc.  
300 Clematis Street, 3<sup>rd</sup> Floor  
West Palm Beach, FL 33401

for the following Project:  
*(Name, location and detailed description)*

2600 Broadway, Riviera Beach  
Architectural and Engineering Services

The scope of work for this task includes: façade modifications, site improvements, landscaping, construction and buildout for a 25,412 SF building to accommodate office space on the second floor and retail spaces on the ground floor. See attached Exhibit B-CRA Scope of Work. The Client has a budget of \$1.9 M. If the estimate exceeds the budget, certain items of the budget will be eliminated for future phase work

The Owner and Architect agree as follows.

### **ADDITIONS AND DELETIONS:**

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

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## TABLE OF ARTICLES

1	INITIAL INFORMATION
2	ARCHITECT'S RESPONSIBILITIES
3	SCOPE OF ARCHITECT'S BASIC SERVICES
4	SUPPLEMENTAL AND ADDITIONAL SERVICES
5	OWNER'S RESPONSIBILITIES
6	COST OF THE WORK
7	COPYRIGHTS AND LICENSES
8	CLAIMS AND DISPUTES
9	TERMINATION OR SUSPENSION
10	MISCELLANEOUS PROVISIONS
11	COMPENSATION
12	SPECIAL TERMS AND CONDITIONS
13	SCOPE OF THE AGREEMENT

### ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

*(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")*

§ 1.1.1 The Owner's program for the Project:

*(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)*

See attached Exhibit A- Proposal

§ 1.1.2 The Project's physical characteristics:

*(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)*

See attached Exhibit A- Proposal

§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1:

*(Provide total and, if known, a line item breakdown.)*

See attached Exhibit A- Proposal

§ 1.1.4 The Owner's anticipated design and construction milestone dates: To be determined. (See Exhibit "A" Preliminary Construction Schedule)

- .1 Design phase milestone dates, if any:
- .2 Construction commencement date:
- .3 Substantial Completion date or dates:

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4 Other milestone dates:

§ 1.1.5 The Owner intends the following procurement and delivery method for the Project:  
*(Identify method such as competitive bid or negotiated contract, as well as any requirements for accelerated or fast-track design and construction, multiple bid packages, or phased construction.)*

To be determined

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:  
*(Identify and describe the Owner's Sustainable Objective for the Project, if any.)*

Not Applicable

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Architect shall complete and incorporate AIA Document E204™-2017, Sustainable Projects Exhibit, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E204-2017 is incorporated into this agreement, the Owner and Architect shall incorporate the completed E204-2017 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.7 The Owner identifies the following representative in accordance with Section 5.3:  
*(List name, address, and other contact information.)*

Scott Evans, Interim Executive Director  
Riviera Beach Community Redevelopment Agency  
2001 Broadway, Ste. 300  
Riviera Beach, FL 33404

§ 1.1.8 The persons or entities, in addition to the Owner's representative, who are required to review the Architect's submittals to the Owner are as follows:  
*(List name, address, and other contact information.)*

Andre Lewis, Project Manager  
Riviera Beach Community Redevelopment Agency  
2001 Broadway, Ste. 300  
Riviera Beach, FL 33404

§ 1.1.9 The Owner shall retain the following consultants and contractors:  
*(List name, legal status, address, and other contact information.)*

- .1 Geotechnical Engineer:  
Not Applicable
- .2 Civil Engineer:  
Not Applicable
- .3 Other, if any:  
*(List any other consultants and contractors retained by the Owner.)*

§ 1.1.10 The Architect identifies the following representative in accordance with Section 2.3:  
*(List name, address, and other contact information.)*

Christine Merrell, RA  
REG Architects, Inc.  
300 Clematis Street, 3<sup>rd</sup> Floor  
Riviera Beach, FL 33401

§ 1.1.11 The Architect shall retain the consultants identified in Sections 1.1.11.1 and 1.1.11.2:  
*(List name, legal status, address, and other contact information.)*

§ 1.1.11.1 Consultants retained under Basic Services:

- .1 Structural & MEP Engineer, Fire Protection and Low Voltage Design:  
TLC Engineering Solutions  
Gary Krueger, PE (321) 427-7438

*(Paragraph deleted)*

- .2 Civil Engineer:  
Engenuity Group, Inc.  
Keith Jackson, PE (561) 655- 1151

*(Paragraphs deleted)*

- .3 Landscape Architect:  
Gentile Glas Holloway  
Emily O'Mahoney (561) 575-9557

§ 1.1.11.2 Consultants retained under Supplemental Services:

None

§ 1.1.11.3 The Architect shall hire and manage the Consultants and shall be fully responsible for the performance, act, and omissions. The Owner shall have the right to approve the selection of each Consultant and to evaluate each Consultant's performance. Should the Owner determine a Consultant's performance to be inadequate, the Owner may recommend to the Architect that the Consultant be replaced. The Architect shall not be unreasonably without its consent to such replacement. The Owner's exercise or failure to exercise its right und Section 1.1 shall in event prejudice or limit any rights the Owner may otherwise have to assert any claims hereunder regarding the selection or performance of such Consultant.

§ 1.1.12 Other Initial Information on which the Agreement is based:

None

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the Architect's services, schedule for the Architect's services, and the Architect's compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™-2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

**ARTICLE 2 ARCHITECT'S RESPONSIBILITIES**

§ 2.1 The Architect and each consultant shall provide professional services as set forth in this Agreement. The Architect represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals. The Architect and each Consultant shall at all times act in good faith and in the best interest of the Owner and shall use its best efforts and exercise sound business judgment in performing its services hereunder. The Architect shall without additional compensation promptly correct any errors, omissions, deficiencies or inconsistencies in the services or work proceeds of the Architect or the Consultant's.

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§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.

§ 2.4 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 2.5 The Architect shall maintain the following insurance until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9.

§ 2.5.1 Commercial General Liability with policy limits of not less than one million (\$ 1,000,000 ) for each occurrence and two million (\$ 2,000,000 ) in the aggregate for bodily injury and property damage.

§ 2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than one million (\$ 1,000,000 ) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

§ 2.5.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.5.1 and 2.5.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 2.5.4 Workers' Compensation at statutory limits.

§ 2.5.5 Employers' Liability with policy limits not less than one million (\$ 1,000,000 ) each accident, one million (\$ 1,000,000 ) each employee, and two million (\$ 2,000,000 ) policy limit.

§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than one million (\$ 1,000,000 ) per claim and one million (\$ 1,000,000 ) in the aggregate.

§ 2.5.7 **Additional Insured Obligations.** the Architect shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Architect's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 2.5.8 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5.

### ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services.

§ 3.1.1 The Architect shall manage the Architect's services, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner.

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User Notes:

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**§ 3.1.2** The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

**§ 3.1.3** As soon as practicable after the date of this Agreement, but in no event within thirty (30) days of the execution of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

**§ 3.1.4** The Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming Work, made or given without the Architect's written approval.

**§ 3.1.5** The Architect shall contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities. Should the Architect submit drawings, plans, specifications or other documents or materials for review as required herein that are deemed unacceptable as defined by the terms "Revise and Resubmit" by the plan review authority (Building Department, Design Services Department, Peer Review Committee, or other permitting agency) the costs as determined by the Owner, for subsequent reviews, after the second submittal shall be borne by the Architect.

**§ 3.1.6** The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project. Communications, consultations, presentations, and meetings with and to all governmental authorities, including without limitation, attendance at all public hearings and review sessions and the preparation of permits, calculations, and supporting materials in a timely and professional fashion are included as part of the Architect's Basic and Elected Additional Services.

### **§ 3.2 Schematic Design Phase Services**

**§ 3.2.1** The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services.

**§ 3.2.2** The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, the proposed procurement and delivery method, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

**§ 3.2.3** The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

**§ 3.2.4** Based on the Project requirements agreed upon with the Owner, the Architect shall prepare and present, for the Owner's approval, a preliminary design illustrating the scale and relationship of the Project components.

**§ 3.2.5** Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may

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include some combination of study models, perspective sketches, or digital representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

**§ 3.2.5.1** The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain more advanced sustainable design services as a Supplemental Service under Section 4.1.1. No LEED certification is proposed for this project.

**§ 3.2.5.2** The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule, and budget for the Cost of the Work.

**§ 3.2.6** The Architect shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3.

**§ 3.2.7** The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval.

### **§ 3.3 Design Development Phase Services**

**§ 3.3.1** Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels.

**§ 3.3.2** The Architect shall update the estimate of the Cost of the Work prepared in accordance with Section 6.3.

**§ 3.3.3** The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval.

### **§ 3.4 Construction Documents Phase Services**

**§ 3.4.1** Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Architect is responsible for the full compliance of the design with all applicable codes. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that, in order to perform the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

**§ 3.4.2** The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.

**§ 3.4.3** During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) procurement information that describes the time, place, and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications, and may include bidding requirements and sample forms.

**§ 3.4.4** The Architect shall update the estimate for the Cost of the Work prepared in accordance with Section 6.3.

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval.

### § 3.5 Procurement Phase Services

#### § 3.5.1 General

The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and, (4) awarding and preparing contracts for construction.

#### § 3.5.2 Competitive Bidding

§ 3.5.2.1 Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

§ 3.5.2.2 The Architect shall assist the Owner in bidding the Project by:

- .1 facilitating the distribution of Bidding Documents to prospective bidders;
- .2 organizing and conducting a pre-bid conference for prospective bidders;
- .3 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to the prospective bidders in the form of addenda; and,
- .4 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

§ 3.5.2.3 If the Bidding Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective bidders.

#### § 3.5.3 Negotiated Proposals

§ 3.5.3.1 Proposal Documents shall consist of proposal requirements and proposed Contract Documents.

§ 3.5.3.2 The Architect shall assist the Owner in obtaining proposals by:

- .1 facilitating the distribution of Proposal Documents for distribution to prospective contractors and requesting their return upon completion of the negotiation process;
- .2 organizing and participating in selection interviews with prospective contractors;
- .3 preparing responses to questions from prospective contractors and providing clarifications and interpretations of the Proposal Documents to the prospective contractors in the form of addenda; and,
- .4 participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.

§ 3.5.3.3 If the Proposal Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective contractors.

### § 3.6 Construction Phase Services

#### § 3.6.1 General

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™ 2017, General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201 2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

§ 3.6.1.2 The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work. However, it is the Architect's duty and responsibility to determine whether said Work is

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defective, faulty, or not in compliance with the Contract Documents. If the Architect determines that the Work is defective, faulty, or not in compliance with the Contract Document, the Architect shall advise the Owner in writing and make a recommendation to the Owner concerning correction of the Work and require the Contractor to undertake such corrections as allowed by Contract Documents. Final determination of whether the Work is defective, faulty, or not in compliance with the Contract Documents is to be determined by the Owner.

**§ 3.6.1.3** Subject to Section 4.2 and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

### **§ 3.6.2 Evaluations of the Work**

**§ 3.6.2.1** The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work.

**§ 3.6.2.2** The Architect has the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

**§ 3.6.2.3** The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

**§ 3.6.2.4** Interpretations and decisions of the Architect shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

**§ 3.6.2.5** Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201-2017, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

### **§ 3.6.3 Certificates for Payment to Contractor**

**§ 3.6.3.1** The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect.

**§ 3.6.3.2** The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction

means, methods, techniques, sequences or procedures. (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

**§ 3.6.3.3** The Architect shall maintain a record of the Applications and Certificates for Payment.

#### **§ 3.6.4 Submittals**

**§ 3.6.4.1** The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the Architect's professional judgment, to permit adequate review.

**§ 3.6.4.2** The Architect shall review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

**§ 3.6.4.3** If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The Architect's review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

**§ 3.6.4.4** Subject to Section 4.2, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

**§ 3.6.4.5** The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

#### **§ 3.6.5 Changes in the Work**

**§ 3.6.5.1** The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

**§ 3.6.5.2** The Architect shall maintain records relative to changes in the Work.

#### **§ 3.6.6 Project Completion**

**§ 3.6.6.1** The Architect shall:

- .1 conduct inspections to determine the date or dates of Substantial Completion and the date of final completion;
- .2 issue Certificates of Substantial Completion;



- .3 forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; and,
- .4 issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

§ 3.6.6.3 When Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens, or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

**ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES**

**§ 4.1 Supplemental Services**

§ 4.1.1 The services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Supplemental Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project.

*(Designate the Architect's Supplemental Services and the Owner's Supplemental Services required for the Project by indicating whether the Architect or Owner shall be responsible for providing the identified Supplemental Service. Insert a description of the Supplemental Services in Section 4.1.2 below or attach the description of services as an exhibit to this Agreement.)*

Supplemental Services	Responsibility <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.1 Programming	Architect
§ 4.1.1.2 Multiple preliminary designs	N.I.C.
§ 4.1.1.3 Measured drawings	N.I.C.
§ 4.1.1.4 Existing facilities surveys	N.I.C.
§ 4.1.1.5 Site evaluation and planning	Owner
§ 4.1.1.6 Building Information Model management responsibilities	N.I.C.
§ 4.1.1.7 Development of Building Information Models for post construction use	N.I.C.
§ 4.1.1.8 Civil engineering	Architect
§ 4.1.1.9 Landscape design	Architect
§ 4.1.1.10 Architectural interior design	N.I.C.
§ 4.1.1.11 Value analysis	N.I.C.
§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3	N.I.C.
§ 4.1.1.13 On-site project representation	N.I.C.

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Supplemental Services	Responsibility <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.14 Conformed documents for construction	N.I.C.
§ 4.1.1.15 As-designed record drawings	N.I.C.
§ 4.1.1.16 As-constructed record drawings	N.I.C.
§ 4.1.1.17 Post-occupancy evaluation	N.I.C.
§ 4.1.1.18 Facility support services	N.I.C.
§ 4.1.1.19 Tenant-related services	N.I.C.
§ 4.1.1.20 Architect's coordination of the Owner's consultants	Architect
§ 4.1.1.21 Communications design & coordination	Architect
§ 4.1.1.22 Security & Cable system design & coordination	Architect
<i>(Row deleted)</i>	
§ 4.1.1.23 Commissioning	N.I.C.
§ 4.1.1.24 Sustainable Project Services pursuant to Section 4.1.3	N.I.C.
§ 4.1.1.25 Fast-track design services	N.I.C.
§ 4.1.1.26 Multiple bid packages	N.I.C.
§ 4.1.1.27 Historic preservation	N.I.C.
§ 4.1.1.28 Furniture, furnishings, and equipment design	N.I.C.
§ 4.1.1.29 Other services provided by specialty Consultants	Architect*
§ 4.1.1.30 Other Supplemental Services	N.I.C.
§ 4.1.1.31 Structural, MEP, Fire Protection & Low Voltage	Architect

#### § 4.1.2 Description of Supplemental Services

§ 4.1.2.1 A description of each Supplemental Service identified in Section 4.1.1 as the Architect's responsibility is provided below.

*(Describe in detail the Architect's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit. The AIA publishes a number of Standard Form of Architect's Services documents that can be included as an exhibit to describe the Architect's Supplemental Services.)*

Kcn Stapleton- Safe Designs Consulting

§ 4.1.2.2 A description of each Supplemental Service identified in Section 4.1.1 as the Owner's responsibility is provided below.

*(Describe in detail the Owner's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit.)*

§ 4.1.3 If the Owner identified a Sustainable Objective in Article 1, the Architect shall provide, as a Supplemental Service, the Sustainability Services required in AIA Document E204™-2017, Sustainable Projects Exhibit, attached to this Agreement. The Owner shall compensate the Architect as provided in Section 11.2.

#### § 4.2 Architect's Additional Services

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

§ 4.2.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following Additional Services until the Architect receives the Owner's written authorization:

Init.

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;
- .3 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b) contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;
- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .5 Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner-authorized recipients;
- .6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;
- .7 Preparation for, and attendance at, a public presentation, meeting or hearing;
- .8 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .9 Evaluation of the qualifications of entities providing bids or proposals;
- .10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or,
- .11 Assistance to the Initial Decision Maker, if other than the Architect.

**§ 4.2.2** To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon receipt of the Architect's notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the Architect of the Owner's determination. The Owner shall compensate the Architect for the services provided prior to the Architect's receipt of the Owner's notice.

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule approved by the Architect;
- .2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker; or,
- .5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom.

**§ 4.2.3** The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

- .1 Eight ( 8 ) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor
- .2 Ten ( 10 ) visits to the site by the Architect during construction
- .3 Five ( 5 ) observations for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 One ( 1 ) observations for any portion of the Work to determine final completion.

**§ 4.2.4** Except for services required under Section 3.6.6.5 and those services that do not exceed the limits set forth in Section 4.2.3, Construction Phase Services provided more than 60 days after (1) the date of Substantial Completion of the Work or (2) the initial date of Substantial Completion identified in the agreement between the Owner and Contractor, whichever is earlier, shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.

§ 4.2.5 If the services covered by this Agreement have not been completed within sixteen (16) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

#### ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program, which shall set forth the Owner's objectives; schedule; constraints and criteria, including space requirements and relationships; flexibility; expandability; special equipment; systems; and site requirements.

§ 5.2 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

§ 5.4 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions, and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 5.5 The Owner shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 5.6 The Owner shall provide the Supplemental Services designated as the Owner's responsibility in Section 4.1.1.

§ 5.7 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E204™-2017, Sustainable Projects Exhibit, attached to this Agreement.

§ 5.8 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated as the responsibility of the Architect in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

§ 5.9 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 5.10 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.11 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

Init.

§ 5.12 The Owner shall include the Architect in all communications with the Contractor that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.

§ 5.13 Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

§ 5.14 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

§ 5.15 Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights.

#### ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and shall be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work, prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials, or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market, or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by the Architect.

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1.1, as a Supplemental Service.

§ 6.4 If, through no fault of the Architect, the Procurement Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality, or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 9.5;

Init.

- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or,
- .5 implement any other mutually acceptable alternative.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3; otherwise the Architect's services for modifying the Construction Documents shall be without additional compensation. In any event, the Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

#### ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 7.2 The Architect hereby assigns to the Owner, without reservation, all copyrights of the project Scope-related documents, Drawings, models, computer drawings and other electronic expression in any form of media, photographs, and other expression produced by the Architect and Consultants, including without limitation, the design drawings and all Drawings, Specifications, and other documents produced by the Architect or the Consultants that are included in the Contract Documents (collectively, the "Instruments of Service"). The Owner's obligation to pay the Architect is conditioned upon the Architect's obtaining a valid written assignment from its Consultant's substantially similar to that set forth in the proceeding sentence, of all their copyrights in the Instruments of Service, which copyrights the Architect assigns to the Owner. The Owner in turn, hereby grants to the Architect a nonexclusive license to reproduce the Instruments of Service to purposes relating directly to the Architect's performance of the Project Scope, for the Architect's archival records, and subject to Section 10.7, for the Architect's reproduction of drawings and photographs in the Architect's marketing materials. No other instruments of Service may be reproduced for any other purpose without the express written consent of the Owner. No other copyrights are included in this grant of nonexclusive license to the Architect. The word "Drawings" as used in this Section includes, without limitation, graphic images of the Project related drawings and two and three-dimensional depictions of the Project Scope in any form of media, including, but not limited to, those contained in computer files stored on computer disks, tapes, and other digital storage media. The Owner and the Owner's successors in interest shall have the right upon request to receive such drawings in the form of such digital memory storage media, together with copies of the Architect's CAD Drawings as maintained in the Architect's computer files.

§ 7.3 The Architect shall not be responsible for, or otherwise liable to the Owner or the Owner's successors in interest for, any damages or claims arising from changes made to the Instruments of Service by the Owner or by Owner's successor in interest without the Architect's participation as provided in this Agreement. The Owner, on behalf of itself and its successor in interest, agrees to release, remise, and forever discharge the Architect from any claim, liability or cost arising out of any such changes, or arising out of the use of the Instruments of Service by the Owner for any purpose other than the design, construction, reconstruction, renovation, use and occupancy of the Project Scope.

#### § 7.3.1

§ 7.4 If the Owner subsequently reproduces the Project-related documents or creates (or causes a third party to create) a derivative work based upon the Project Scope-related documents created by the documents of the identity of the Architect and item Consultants. However, where required by law, such identification, with appropriate qualifying language or other statutorily prescribed information identifying the original Architect or the scope of the reuse of the documents, may remain or be applied

§ 7.5 Except as otherwise stated in Section 7.3, the provisions of this Article 7 shall survive the termination of this Agreement.

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## ARTICLE 8 CLAIMS AND DISPUTES

### § 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2017, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect and Owner waive consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

### § 8.2 Mediation

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

§ 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of this Agreement. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 8.2.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:

*(Check the appropriate box.)*

- Arbitration pursuant to Section 8.3 of this Agreement
- Litigation in a court of competent jurisdiction
- Other: *(Specify)*

If the Owner and Architect do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.

### § 8.3 Arbitration

§ 8.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by,

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mediation shall be subject to arbitration, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.

**§ 8.3.1.1** A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.

**§ 8.3.2** The foregoing agreement to arbitrate, and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement, shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

**§ 8.3.3** The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

**§ 8.3.4 Consolidation or Joinder**

**§ 8.3.4.1** Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

**§ 8.3.4.2** Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

**§ 8.3.4.3** The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.

**§ 8.4** The provisions of this Article 8 shall survive the termination of this Agreement.

**ARTICLE 9 TERMINATION OR SUSPENSION**

**§ 9.1** If the Owner fails to make payments to the Architect in accordance with this Agreement, and such failure continues for a period in excess of thirty (30) days after written notice to the Owner of such non-payment has been given, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

**§ 9.2** If the Owner suspends the Project, for more than 180 days for reasons other than the Architect's fault, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

**§ 9.3** If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

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§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for services performed prior to termination, Reimbursable Expenses incurred, and costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements.

§ 9.7 In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall pay to the Architect the following fees:

*(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)*

.1 Termination Fee:  
\$10,000.00

.2

§ 9.8 Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

§ 9.9 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 9.7.

#### ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Laws of the State of Florida, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2017, General Conditions of the Contract for Construction.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to the Architect by the Owner prior to the assignment.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services, or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Architect.

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§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement.

§ 10.8.1 The receiving party may disclose "confidential" or "business proprietary" information after 7 days' notice to the other party, when required by law, arbitrator's order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8.

§ 10.9 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

#### ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

- .1 Stipulated Sum  
*(Insert amount)*  
\$225,000.00
- .2 Percentage Basis  
*(Insert percentage value)*  
( ) % of the Owner's budget for the Cost of the Work, as calculated in accordance with Section 11.6.
- .3 Other  
*(Describe the method of compensation)*

§ 11.2 For the Architect's Supplemental Services designated in Section 4.1.1 and for any Sustainability Services required pursuant to Section 4.1.3, the Owner shall compensate the Architect as follows:

*(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)*

Not Applicable

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:

*(Insert amount of, or basis for, compensation.)*

See attached Exhibit B-Hourly Rates

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**§ 11.4** Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus five percent ( 5 %), or as follows:  
*(Insert amount of, or basis for computing, Architect's consultants' compensation for Supplemental or Additional Services.)*

**§ 11.5** When compensation for Basic Services is based on a stipulated sum or a percentage basis, the proportion of compensation for each phase of services shall be as follows:

Conceptual Design	\$22,500.00			
CRA Board/Community Workshops	4,500.00			
Schematic Design	29,250.00	percent (		%)
Design Development	45,000.00	percent (		%)
Construction Documents	78,750.00	percent (		%)
Bidding & Permitting Assistance	11,250.00	percent (		%)
Construction Administration	33,750.00	percent (		%)
Ken Stapleton "Safe Designs"	10,000.00			
<b>Total Basic Compensation</b>	<b>\$235,000.00</b>	<b>percent (</b>	<b>100</b>	<b>%)</b>

**§ 11.6** When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner's most recent budget for the Cost of the Work. Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner's budget for the Cost of the Work.

**§ 11.6.1** When compensation is on a percentage basis and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

**§ 11.7** The hourly billing rates for services of the Architect and the Architect's consultants are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices.  
*(If applicable, attach an exhibit of hourly billing rates or insert them below.)*

See attached Exhibit B-Hourly Rates

Employee or Category	Rate (\$0.00)
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**§ 11.8 Compensation for Reimbursable Expenses**

**§ 11.8.1** Reimbursable Expenses are in addition to compensation for Basic, Supplemental, and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;
- .3 Permitting and other fees required by authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, and standard form documents;
- .5 Postage, handling, and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;
- .8 If required by the Owner, and with the Owner's prior written approval, the Architect's consultants' expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect's consultants;
- .9 All taxes levied on professional services and on reimbursable expenses;
- .10 Site office expenses;

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- .11 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and,
- .12 Other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus five percent ( 5 %) of the expenses incurred.

§ 11.9 **Architect's Insurance.** If the types and limits of coverage required in Section 2.5 are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect for the additional costs incurred by the Architect for the additional coverages as set forth below:

*(Insert the additional coverages the Architect is required to obtain in order to satisfy the requirements set forth in Section 2.5, and for which the Owner shall reimburse the Architect.)*

Not Applicable

#### § 11.10 Payments to the Architect

##### § 11.10.1 Initial Payments

§ 11.10.1.1 An initial payment of zero (\$ 0 ) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.1.2 If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Architect of zero (\$ 0 ) shall be made upon execution of this Agreement for registration fees and other fees payable to the Certifying Authority and necessary to achieve the Sustainability Certification. The Architect's payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred.

##### § 11.10.2 Progress Payments

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid ninety ( 90 ) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.

*(Insert rate of monthly or annual interest agreed upon.)*

18 % Eighteen

§ 11.10.2.2 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work, unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.10.2.3 Records of Reimbursable Expenses, expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

#### ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

*(Include other terms and conditions applicable to this Agreement.)*

12.1 Exhibit "A"- Proposal for A & E Services including Hourly Rates; are made a part of this contract

12.2 Conceptual Design Drawings are made a part of this contract as Exhibit "A".

12.3 Should this project (or any phase) be on hold for a period of three (3) months, or if major changes are made to the project scope, this contract is subject to renegotiation

12.4 Owner/Client and Design Professional have discussed the risks, rewards and benefits of the Project and the Design Professional's total fee for services. The risks have been allocated such that the Owner/Client agrees that to the fullest extent permitted by law. Design Professional's total liability to Owner/Client for any and all injuries, claims, losses, expenses, damages or claims expenses arising out of this agreement from any cause or causes, shall not exceed the total amount of the Contract. Such causes include breach of contract and breach of warranty

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**ARTICLE 13 SCOPE OF THE AGREEMENT**

**§ 13.1** This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and Architect.

**§ 13.2** This Agreement is comprised of the following documents identified below:

- .1 AIA Document B101™-2017, Standard Form Agreement Between Owner and Architect
- .2 AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

*(Insert the date of the E203-2013 incorporated into this agreement.)*

**.3 Exhibits:**

*(Check the appropriate box for any exhibits incorporated into this Agreement.)*

AIA Document E204™-2017, Sustainable Projects Exhibit, dated as indicated below:  
*(Insert the date of the E204-2017 incorporated into this agreement.)*

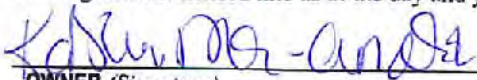
Other Exhibits incorporated into this Agreement:  
*(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits and scopes of services identified as exhibits in Section 4.1.2.)*

Exhibit A- Proposal including Hourly Rates , Client's Scope of Work and Preliminary Construction Schedule

**.4 Other documents:**

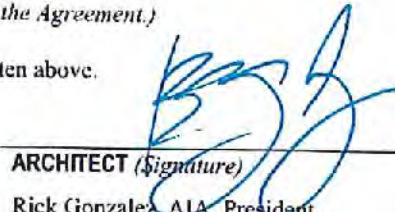
*(List other documents, if any, forming part of the Agreement.)*

This Agreement entered into as of the day and year first written above.



**OWNER** *(Signature)*

KaShamba Miller Anderson, Chairperson  
Riviera Beach Community Redevelopment Agency  
*(Printed name and title)*



**ARCHITECT** *(Signature)*

Rick Gonzalez, AIA, President  
REG Architects, Inc.

*(Printed name, title, and license number, if required)*

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Exhibit "A"

**REG ARCHITECTS, INC.**

ARCHITECTURE \* INTERIOR DESIGN \* PLANNING

January 17, 2019, Revised 3/13/19 & 4/15/19

Mr. Scott Evans  
Interim Executive Director  
Riviera Beach CRA  
2001 Broadway, Ste. 300  
Riviera Beach, FL 33404

Via E-mail: [SEvans@rbcr.com](mailto:SEvans@rbcr.com)  
cc: [ALewis@rbcr.com](mailto:ALewis@rbcr.com)

RE: Revised Proposal Request – Architectural Design and Construction Documents for  
2600 Broadway Building Redevelopment  
Project Proposal with Program and Fees for Renovation

PO No.: 2195

Dear Mr. Evans:

*Scott*

REG Architects, Inc. is pleased to provide you this 'outline proposal' to assist you in preparing conceptual design through construction documents for the above referenced project. The proposed project as we understand it consists of providing Architecture and Engineering services for the renovation of the building. The program is described in further detail in the paragraphs below. Attached are: Reference Drawings/Space Plan/Site Plan examples with a Project Outline Schedule.

The following is proposed to be conceptual and subject to change if needed after your input and reviews by you and your associates:

**1. REG Architects, Inc. Project Team:**

1. **REG ARCHITECTS, INC.** Architectural, Planning & Interior Design:  
Project Team Leader Rick Gonzalez, AIA, President; Colin Price, Vice President;  
Vlad Dumitrescu, AIA, LEED-AP, Sr. Project Designer; and Christine Merrell, RA,  
Project Manager.
2. REG CONSULTANTS as selected by REG Architects with input from the Client to include **TLC Engineering** for Structural, Mechanical, Electrical, Plumbing (MEP) and Fire Protection Engineering including low voltage design; and **Engenuity Group, Inc.** for Civil Engineering and **Gentile Glas Halloway O'Mahoney** for Landscape Architecture. For 'Safe Designs' site Analysis, Ken Stapleton shall be added to the project team

300 Clematis Street, 3rd Floor, West Palm Beach, FL 33401

Phone: (561) 659-2383 • Fax: (561) 659-5546

[www.regarchitects.com](http://www.regarchitects.com)

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3. **CLIENT'S CONSULTANTS:** Client shall provide at his expense all consulting services necessary for the development of the project that are not included in REG's consulting team and/or scope of work, such as Surveyor or Environmental Engineering (if needed) and assist in coordinating these services with REG's team.

## 2. **Proposed Project Program:**

### **Task I. Architectural and Engineering Services**

The scope of work for this task includes: façade modifications, site improvements, landscaping, construction and buildout for a 25,412 SF building to accommodate office space on the second floor and retail spaces on the ground floor. See attached Exhibit B-CRA Scope of Work. The Client has a budget of \$1.9 M. If the estimate exceeds the budget, certain items of the budget will be eliminated for future phase work.

All tasks will be broken up into typical phases as follows:

#### **A. Existing Conditions & Conceptual Design:**

REG shall visit the property to gather information on existing conditions. REG will also obtain any existing record drawings from either the client and/or local municipality that will help in the process of establishing existing conditions. Ken Stapleton will provide Site Analysis on 'Safe Designs'. Based on information obtained from Client and/or Client Representative and/or Client Consultants, REG shall prepare conceptual drawings consisting of sketches, diagrams, and/or rough computer models used to describe the general idea, scale, massing, and relationship of the project components, for initial reviews and approval by Client.

#### **B. CRA Board/Community Workshops (CW):**

REG will prepare variations of Conceptual Designs to include renderings to assist CRA with a CRA Board and Community Workshop to provide input and direction on the Conceptual Design.

#### **C. Schematic Design & Site Plan Approval (SD):**

Based on approved Conceptual Design Documents and any adjustments authorized by the Client, REG shall prepare Schematic Design Documents consisting of site plan (if appropriate), preliminary floor plans, elevations, sections and refined computer models/renderings (if appropriate) to translate concept drawings to digital format. REG will also prepare, with assistance from client consultant, a set of documents to be submitted to the local municipality for site plan approval and for City Council approval.

**D. Design Development (DD):**

Based on approved Schematic Design Documents and any adjustments authorized by the Client in the program, REG shall prepare Design Development Documents consisting of drawings and other documents to fix and describe the size and character of the Project as to architectural, structural, mechanical, electrical, plumbing, fire protection, civil, landscape; including obtaining input from REG Consultants, Client, Client's Representative and Client's Consultants.

**E. Construction Documents (CD):**

Based on approved Design Development Documents and any other adjustments to the scope approved/authorized by the Client, REG shall prepare, for approval by the Client, Construction Documents consisting of drawings and note form specifications setting forth in detail the requirements for construction of the project including obtaining input from REG Consultants, Client's Representative and Client's Consultants.

**F. Bidding and Permitting (BP):**

For the Bidding and Permitting phase of the project, REG shall assist the Client and Client's Representative in obtaining bids or negotiated proposals from Construction Managers at risk and assist in awarding and preparing contract for construction including review of sub-packages for sheltered market/local preference sub-contractors.. The architect shall provide (3) full sets of Construction Documents necessary for permitting to the Client, Client Representative, or selected General Contractor for issuance to the local building department for review. The Architect shall not be responsible for any permitting or review applications or fees.

**G. Construction Administration (CA):**

The Construction Administration Phase shall consist of regularly scheduled site visits for jobsite meetings, site observations, and shop drawing review. Monthly field reports shall be provided based on site observations. Please note, construction Administration does not include any site inspections, field testing, special inspections, or changes to the project scope or plans.

**Task II. Optional Services (if required and requested)**

**A. Interior Design**

REG Interiors will prepare conceptual design study for each area within the context of the overall project. The floor, wall and ceiling finishes, lighting and furniture that will be impacted in each area will either be matched or selected, and finishes will be recommended. Further, we will provide sample finishes on Interior color boards, with main materials and finishes supporting proposed solutions and/or integrating any existing built-ins or furniture with similar product/design. The submission will be designed to facilitate decisions/comments as well as preparing the base for construction assessment, bidding and construction. Specific services include: choosing finish



selections, fabrics for furnishings, lighting fixtures, furnishings, treatments for windows and create color boards for visual presentation

**B. Sustainable Design & Green Architecture & Historic Preservation Research**

REG shall review Design and Materials specification for Green/LEED architecture and for possible State of Florida Historic Preservation Grant Research. A report outlining potentials for Florida Green Designation and for Florida Historic Preservation Grant opportunities shall be submitted. Additional work will require a contract for additional service.

**3. Proposed Fees:**

It is our intent and suggestion to continue with each of the tasks of the project consecutively in order to meet the project's schedule. Outstanding deposits/balances must be paid prior to the start of work for the next phase. The following fees are reflective of a standard design-bid-build method of project delivery and are subject to change if another project delivery method is used.

<b>Task I.</b>	<b><u>Architectural &amp; Engineering Services</u></b>	<b><u>Fees</u></b>
A.	Conceptual Phase 10%	\$ 22,500.00
B.	CRA Board/Community Workshops 2%	\$ 4,500.00
C.	Schematic Design 13%	\$ 29,250.00
D.	Design Development Phase 20%	\$ 45,000.00
E.	Construction Document Phase 35%	\$ 78,750.00
F.	Bidding & Permitting Assistance Phase 5%	\$ 11,250.00
G.	Construction Administration 15%	\$ 33,750.00
	<b>Total for Task I. (A.-G.)</b>	<b>\$ 225,000.00</b>
H.	Ken Stapleton 'Safe Designs' consulting	+\$ 10,000.00 A.S./NTE
<b>Task II.</b>	<b><u>Optional Services:</u></b>	
A.	Interior Design Services Furniture, furnishings and equipment (FFE) assistance	\$Hourly as Requested/A.S.
B.	Sustainable, LEED/ Green Architecture/Historic Research (No charge for initial report).	\$ Hourly as Requested/A.S.

In addition to these task fees, please allow an additional five percent per task for reimbursable expenses (\$11,250.00 NTE).

Please see attached Exhibit D- Schedule, for tentative project progression.

**Exclusions:**

Programming, Multiple Preliminary Designs, Marketing Material, Existing Facility As-Builts, Surveys, Geotechnical Reports, Environmental Reports, Traffic Studies, NOA submittals, Building Information Modeling (BIM), Energy Modeling, Historic Preservation, Sustainable Design (LEED or other "green" certification), Acoustical Design, Security Design, Food Service Design, Pool/Fountain Design, Interior Design/Decorating, As-Constructed Record Drawings, Detailed Cost Estimating, On-Site Project Representation, System Commissioning, Field Testing, Special Inspections, Tenant Buildouts Design and FF&E /Purchasing are all considered individual additional services to be priced at a later date if so requested.

Please note, the items listed above are an overview of the proposal services and fees that we will provide. Please be advised that this proposal becomes null and void if not signed within 30 days (April 13, 2019). If the project is put on hold at any time for more than 60 days, additional fees (restart) will be required.

If this outline proposal is acceptable to you, please sign below and return to our office, so we can schedule your work to begin upon receipt. Although approval of this proposal would allow us to begin work, we request the execution of the **Standard AIA, B101 – 2007 Agreement** as the official Contractual Agreement between the Client and Architect to be prepared and approved by both parties within 30 days of execution of this outline proposal.

We thank you and your team for the opportunity to assist you with this great project.

Sincerely,  
**REG Architects, Inc.**

  
Rick Gonzalez, AIA  
President

Accepted This 22 of May, 2019

By:   
Authorized Client Representative

cc: Colin Price, Vice President/REG Architects, Inc.

enclosures: Deposit Invoice  
Exhibit A- REG Hourly Rate Sheet  
Exhibit B-CRA Scope of Work  
Exhibit C-Drawings  
Exhibit D- Schedule

RG/ep

**Exhibit A**

**HOURLY RATE SHEET**

**SUBJECT:** HOURLY RATES FOR PROFESSIONAL SERVICES AS MAY BE REQUIRED

**FROM:** RICK GONZALEZ, AIA, PRESIDENT, REG ARCHITECTS, INC.

**DATE:** 2019

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**A. HOURLY RATES:**

Hourly rates for professional services shall be as follows for Government Rates:

	<u>Standard Rates</u>	<u>Government Rates</u>
Expert Witness	\$350.00	\$275.00
Principals	\$275.00	\$200.00
Associate Registered Architects	\$225.00	\$160.00
Architectural Animator	\$200.00	
Sr. Project Manager	\$185.00	
Project Manager	\$175.00	\$140.00
Quality Control Reviewer	\$160.00	
Interior Design Coordinator	\$130.00	\$125.00
Construction Administrator	\$130.00	\$100.00
Revit/AutoCAD Technician	\$125.00	\$ 90.00
Graphic Designer	\$120.00	
Administrative Support Staff	\$ 75.00	\$ 60.00

**B. FIXED FEE RATES:**

Can be quoted when project's scope and budget are clearly defined and finalized.

*g:\potential project proposals\2019 potential client proposals\2600 broadway\revised proposal 2600 broadway dated Apr. 15, 2019.docx*

## Exhibit "B"



Florida's Dynamic  
Waterfront Community

## RIVIERA BEACH COMMUNITY REDEVELOPMENT AGENCY

2001 BROADWAY, SUITE 300  
RIVIERA BEACH, FL 33404  
Phone: 561-844-3408  
Fax: 561-881-8043  
Website: [www.rbcra.com](http://www.rbcra.com)

December 17, 2018

Attn: Rick Gonzalez  
President/Principal Architect  
REG Architects Interiors Planners  
300 Clematis Street 3<sup>rd</sup> Floor  
West Palm Beach, FL 33401

Re: Proposal Request- Architectural Design and Construction Documents for 2600  
Broadway Building Redevelopment

The Riviera Beach Community Redevelopment Agency (RBCRA) hereby request REG Architects, to provide a detailed proposal to provide design and specifications documents for the façade modification, site improvement, landscaping, construction and buildout for the 25,412sqft building located at 2600 Broadway, Riviera Beach FL. The vision of the Agency is to have office space on the second floor of the building with retail spaces on the bottom floor. The Scope of Services is as follows:

### CONSTRUCTION DOCUMENTATION

1. Provide construction drawings for the project.
2. Prepare final layout with site model
3. Provide Construction details
4. Provide electrical engineering documents from sub consultants
5. Provide structural and civil engineering documents from sub consultants
6. Provide landscape Architectural plans and services and any additional required plans
7. Provide Cable System design and coordination including relocating existing equipment.
8. Provide security system design and coordination including relocating existing equipment.
9. Provide communications system design and coordination including relocating existing equipment.

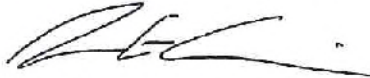
### PERMITTING

1. Prepare plans for permit submittals
2. Provide monitoring during the permit process
3. Provide 6 sets of plans for each discipline.

4. Complete and submit permit application for approval.

#### CONSTRUCTION ADMINISTRATION

1. Review all shop drawings
2. Attend team meeting prior and during construction
3. Complete walk thru and punch list items
4. Complete final inspection and submit a final report.



Andre' Lewis  
Project Manager

Exhibit "C"



PROJECT LOCATION



NOTE:  
CONCEPTUAL ONLY. REQUIRES P&Z REVIEW

PROPOSED CONCEPT  
AERIAL VIEW  
NTS

**REG**  
Architects  
Interiors  
Planners  
COUNTY ADMINISTRATOR



Rob Gonzalez, AIA  
REGISTERED ARCHITECT  
3025 Oceanway Drive, Suite 100  
Riviera Beach, Florida 33413  
Tel: 561.882.2300 Fax: 561.882.2301  
www.reg-arch.com



3600 BIRCH LANE  
RENOVATION  
RIVIERA BEACH, FL

NO. DATE DESCRIPTION

DATE	01/18/19
SCALE	AS NOTED
DRAWN BY	YD
CHECKED BY	CP
DESIGNED BY	

DATE PLOTTED: 01/18/2019 10:58:11 AM  
PLOTTER: HP DesignJet T1100e  
PLOT SCALE: 1/8" = 1'-0"

AERIAL VIEW



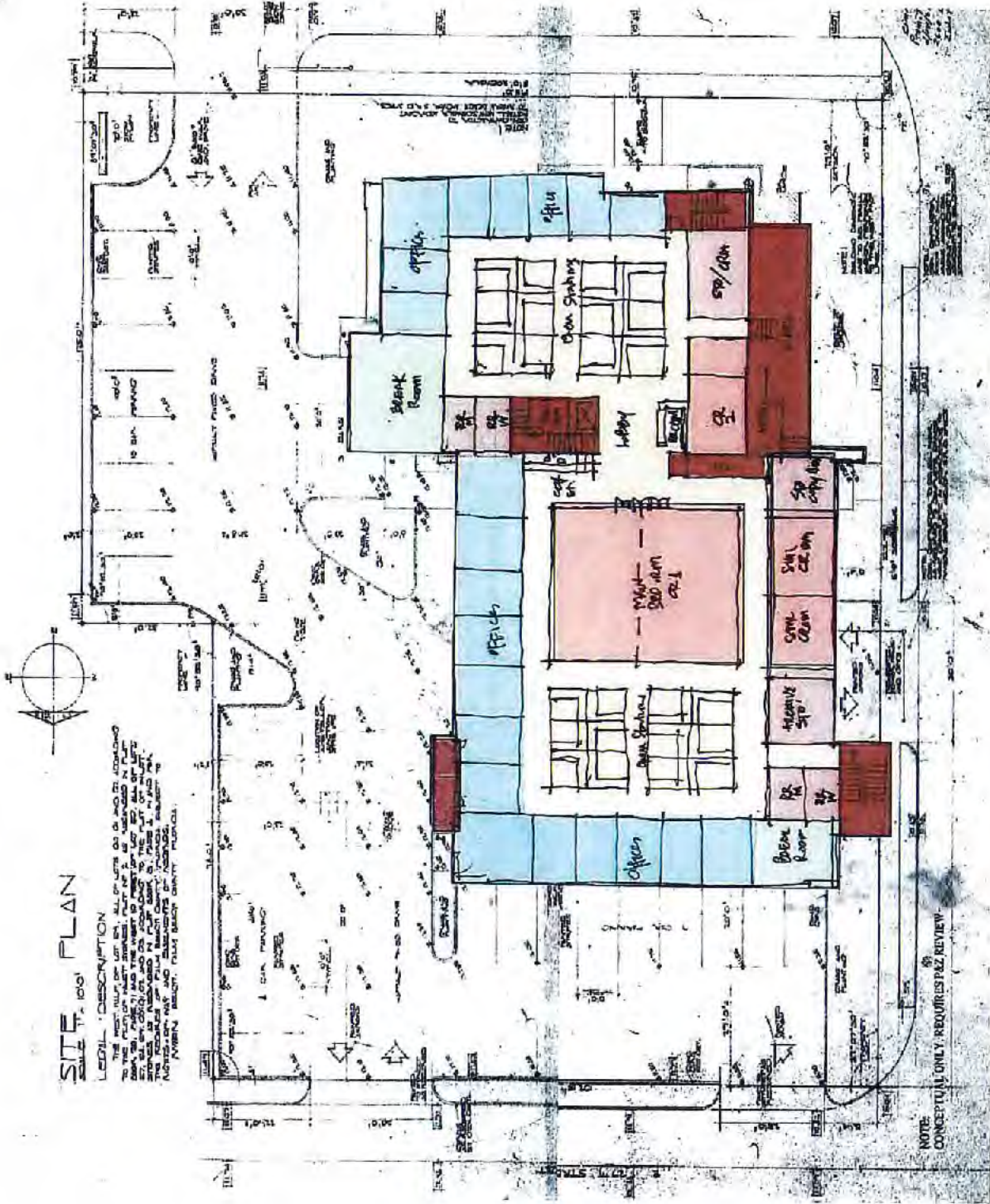


DATE	01/12/19
SCALE	AS NOTED
ORIGINAL	VD
CREATED	CP
REV	

**PROPOSED  
SECOND FLOOR  
DIAGRAM**

**PROPOSED  
SECOND FLOOR DIAGRAM  
APPROX. 17,500 SF  
1"=20'**

**DRAFT  
01/18/2019**







PROPOSED CONCEPT  
STREET VIEW  
NTS



EXISTING  
CONDITIONS

NOTE:  
CONCEPTUAL ONLY. REQUIRES PAZ REVIEW

EXHIBIT D

**PROPOSAL REQUEST - ARCHITECTURAL DESIGN AND CONSTRUCTION DOCUMENTS FOR  
2600 BROADWAY BUILDING REDEVELOPMENT  
January 16, 2019**

**OUTLINE PROJECT SCHEDULE (For Discussion Only)**

Upon Receipt of Purpose Order of Notice To Proceed	YEAR 2019							YEAR 2020											
	1	2	3	4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7
<b>ITEM</b>	1	2	3	4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7
<b>WEEKS</b>	1	2	3	4	5	6	7	8	9	10	11	12	1	2	3	4	5	6	7
10% Conceptual Design	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3
Owner Review*	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
15% Schematic Design	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3
Owner Review	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
Site Plan Approval	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3
20% Design Development	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4
Owner Review*	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
40% Construction Documents	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3	3
Owner Review*	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
Bidding / Contractor	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4
Selection*	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1
Permitting	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8	8
15% Construction Administration	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40	40
Final Completion	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4	4
<b>TOTAL WEEKS*</b>	<b>77</b>	<b>77</b>	<b>77</b>	<b>77</b>	<b>77</b>	<b>77</b>	<b>77</b>	<b>77</b>	<b>77</b>	<b>77</b>	<b>77</b>	<b>77</b>	<b>77</b>	<b>77</b>	<b>77</b>	<b>77</b>	<b>77</b>	<b>77</b>	<b>77</b>

\*NOTE: This is an estimated timeline and is subject to change depending on Owner and Contractor input as well as Building Department work load.

**PROFESSIONAL ARCHITECTURAL SERVICES  
FOR THE CITY OF RIVIERA BEACH**

**THIS CONTINUING SERVICES CONTRACT** is entered into this 5<sup>th</sup> day of July, 2017, between the City of Riviera Beach, Florida, (hereinafter referred to as "CITY") and **REG Architects, Inc.**, a Florida Corporation whose office is in West Palm Beach, Florida and whose Federal Identification number is 65-0130307 (hereinafter referred to as ("ARCHITECT").

**WITNESSETH:**

**WHEREAS**, it has been determined that it is advisable and desirable to employ a regionally recognized firm of architects having special and broad experience in the desired fields for the purpose of providing professional architectural planning, and design services required in conjunction with improvements to the City of Riviera Beach; and

**WHEREAS**, the CITY, in accordance with section 287.055, Florida Statutes, known as the Consultant's Competitive Negotiation Act, has selected ARCHITECT to be one of the most qualified firms to provide architectural services to the City; and

**WHEREAS**, the CITY is now desirous of contracting with ARCHITECT to provide continuing professional architectural services as set forth herein.

**NOW, THEREFORE**, in consideration of the mutual covenants, promises and benefits herein contained, the parties hereto mutually understand and agree as follows:

**ARTICLE 1 – BASIC SERVICES OF ARCHITECT**

ARCHITECT shall serve as CITY's professional ARCHITECT and planning representative in those phases of all projects to which this contract applies, and will give consultation and advice to the CITY during the performance of its services.

- A. **General Project Development** - ARCHITECT shall perform professional services as hereinafter provided which include general architectural services relating to projects as assigned by CITY. Services include, but are not limited to: (1) the preparation of construction plans, documents and specifications; (2) providing architectural/inspection services during construction (3) providing studies, investigations, and consultation as requested by staff; (4) preparing grants and permit applications and representing the CITY before all applicable governing and regulatory agencies; and (5) and providing monthly status reports of Projects.

In the event, that it is determined that a Work Order will be undertaken on a Lump Sum Basis, the ARCHITECT shall submit to the CITY, for its approval, a detailed Scope of Service with an hourly staff rate estimate for each portion of the scope. The ARCHITECT's Lump Sum Fee shall be determined based on the actual hourly labor rates of the ARCHITECT's employees as indicated in Exhibit "2" attached hereto.

- B. Study and Report Phase - After written authorization to proceed, ARCHITECT shall:
1. Consult with CITY to determine its requirements for a Project and review available data.
  2. Advise CITY as to the necessity of the CITY providing or obtaining from others data or services of the types described in Article 3(C) and act as CITY's representative in connection with any such services.
  3. Provide special analyses of CITY's needs and comparative studies of prospective sites and solutions.
  4. Provide general economic analysis of CITY's requirements applicable to various alternatives.
  5. Prepare a Report with appropriate exhibits indicating clearly the considerations involved and the alternative solutions available to CITY, and setting forth ARCHITECT'S findings and recommendations with opinions of probable costs.
  6. Furnish seven (7) copies of the Report and present and review it, in person, with CITY representatives.
- C. Preliminary Design Phase - After written authorization to proceed with the Preliminary Design Phase, ARCHITECT shall:
1. In consultation with CITY and on the basis of the accepted Report, determine the Scope of a Project.
  2. Prepare preliminary design documents consisting of final design criteria, preliminary drawings and outline specifications.
  3. Based on the information contained in the preliminary design documents, submit a revised opinion of probable cost for each Project including construction cost, contingencies, compensation for all professionals and architects, cost of land, and compensation for or damages to properties and interest and financing charges (all of which are hereinafter called "Project Costs").
  4. Furnish seven (7) copies of the above preliminary design documents and present and review them in person with CITY representatives.
  5. Furnish copies and solicit review comments from interested governmental and regulatory agencies and utility companies.
- D. Final Design Phase - After written authorization to proceed with the Final Design Phase, ARCHITECT shall:
1. On the basis of the accepted preliminary design documents prepare for incorporation in the Contract Documents, final drawings to show the character and scope of the work to be performed by Contractors on the Project (hereinafter called "Drawings"), and Specifications.
  2. Furnish to CITY such documents and design data as may be required for, and prepare the required documents so that CITY may obtain approvals of such governmental authorities as having jurisdiction over design criteria applicable to each Project, and assume architectural

responsibility in obtaining such approvals by participating in submissions to and negotiations with appropriate authorities.

3. Advise CITY of any adjustments to its latest opinion of probable Project Cost caused by changes in scope, design requirements or construction costs and furnish a revised opinion of probable Project Cost based on the Drawings and Specifications.
4. Prepare bid forms, notice to bidders, instructions to bidders, general conditions and supplementary conditions, and assist in the preparation of the other related documents.
5. Prepare routine application for approvals and permits from all governmental authorities having jurisdiction over each project and from others as may be necessary for completion and operation of each project. However, ARCHITECT upon certification to the CITY that the application or permit is not routine, may have this service be considered as additional service. This shall include the furnishing of back-up data as required during the various permit application procedures.
6. Furnish seven (7) copies of the above mentioned documents and present and review them in person with CITY representatives.

E. Bidding or Negotiating Phase - Obtain bids from each separate prime Contract for construction or equipment.

1. Consult with and advise CITY as to the acceptability of subcontractors and other persons and organizations proposed by the prime Contractor(s) (hereinafter called "Contractor(s)") for those portions of the work as to which such acceptability is required by the Contract Documents.
2. Consult with and advise CITY as to the acceptability of substitute materials and equipment proposed by Contractor(s) when substitution is permitted by the Contract Documents.
3. Evaluate bids and assemble Contract Documents and recommend to CITY award of Contracts, and participate in presentation to CITY Board and other appropriate authorities as necessary.

F. Architectural/Inspection Services During Construction Phase

During Construction Phase, ARCHITECT shall perform the following services by the ARCHITECT's design office staff and qualified design professionals:

1. Consult with and advise CITY and act as its representative. All of CITY's instructions to Contractor(s) will be issued through ARCHITECT who will have authority to act on behalf of CITY except as otherwise provided in writing.
2. Make periodic visits to the site to observe as an experienced and qualified design professional the progress and quality of the executed work and to determine, in general, if the work is proceeding in accordance with the Contract Documents. ARCHITECT shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of such work unless provided for in the Work Order. ARCHITECT shall not be responsible for the means, methods, techniques, sequences or procedures of construction selected by Contractor(s) or the safety precautions and programs incident to the work of Contractor(s)

during such visits and keep CITY informed of the progress of the work, shall endeavor to guard CITY against defects and deficiencies in the work of Contractor(s), disapprove or reject work as failing to conform to the Contract Documents, and endeavor to achieve expeditious correction of such deficiencies.

3. Review and approve Shop Drawings and samples, the results of tests and inspections and other data which any Contractor is required to submit, for conformance with the design concept and operational requirements of each Project and compliance with the information given in the Contract Documents; determine the acceptability of substitute materials and equipment proposed by Contractor(s); and receive and review (for general content as required by the Specifications) maintenance and operating instructions, schedules, guarantees, bonds and certificates of inspection which are to be assembled by Contractor(s) in accordance with the Contract Documents.
4. Issue all instructions of CITY to Contractor(s); prepare routine change orders as required; ARCHITECT may, as the CITY's representative, require special inspection or testing of the work; act as interpreter of the requirements of the Contract Documents and judge the performance thereunder by the parties thereto; make decisions on all claims of CITY and Contractor(s) relating to the execution and progress of the work, and all other matters and questions related thereto; but ARCHITECT shall not be liable for the results of any such interpretations or decisions rendered by it as a result of erroneous or incomplete information or data provided to it by the CITY.
5. Whenever the CITY gives written notice of defects and deficiencies in any Project, as provided in Article 3-L, the ARCHITECT shall endeavor to achieve expeditious correction of such defects and/or deficiencies.
6. Based on ARCHITECT's on-site observations as an experienced and qualified design professional, input from the Project Representative(s) and its review of Contractor(s)' application for payment and the accompanying data and schedules, determine the amounts owing to Contractor(s) and approve in writing payments to Contractor(s) in such amounts; such approvals of payment to constitute a representation to CITY, based on such observations and review, that the work has progressed to the point indicated and that, the quality of the work is in accordance with the Contract Documents (subject to an evaluation of the work as a functioning Project upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents, and to any qualifications stated in his recommendation). By recommending any payment, ARCHITECT will not thereby be deemed to have represented that continuous or exhaustive examinations have been made by ARCHITECT to check the quality or quantity of the work or to review the means, methods, sequences, techniques or procedures or construction or safety precautions or programs incident thereto. Approving an application for payment ARCHITECT will not be deemed to have represented that he has made any examination to determine how or for what purposes any Contractor has used the monies paid on account of the Contract Price, or that title to any of the Contractor(s)' work, materials or equipment has passed to CITY free and clear of any lien, claims, security interests or encumbrances.
7. Conduct an inspection to determine if the Project is substantially complete and a final inspection to determine if the Project has been completed in accordance with the Contract Documents and if each Contractor has fulfilled all of his obligations thereunder so that ARCHITECT may approve, in writing, final payment to each Contractor.

8. ARCHITECT shall not be responsible for the acts or omissions of any Contractor, any subcontractor or any of the Contractor(s)' or subcontractors' agents or employees or any other persons (except his own employees and agents) at the Project site or otherwise performing any of the work of the project.
9. ARCHITECT shall provide, for each construction project, the set of original record Drawings, including capital asset listing, conforming to construction records, showing the significant changes made during the construction process, based upon the marked-up prints, Drawings and other data furnished to the ARCHITECT by the Contractor(s) and/or by Designees of the CITY.
10. Conduct an inspection sixty (60) days prior to the expiration of a guarantee period related to any Project designed by the ARCHITECT and report to Contractor and CITY discrepancies for correction under guarantees provided in the prime Contract for the Project.

#### **ARTICLE 2 - ADDITIONAL SERVICES OF ARCHITECT**

- A. **General** - If authorized in writing by CITY, ARCHITECT shall furnish or obtain from others Additional Services of the following types which are not considered normal or customary Basic Services; these will be paid for by CITY as indicated in Article 5.
1. (1) Preparation of applications and supplemental project information for governmental grants, loans or advances in connection with a Project; (2) preparation of review of environmental assessments and impact statements; and (3) assume architectural responsibility in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of any Project.
  2. Services resulting from significant changes in general scope of the Project or its design including, but not limited to, changes in size, complexity, CITY's schedule, or character of construction; and revising previously accepted studies, reports, design documents or Contract Documents when such revisions are due to causes beyond ARCHITECT's control.
  3. Providing renderings or models for CITY's use.
  4. Perform those functions required of the ARCHITECT by bond resolutions, and as otherwise authorized by the CITY.
  5. At request of CITY, furnishing the services of specialty sub consultants for civil, geotechnical, electrical, plumbing, mechanical, structural, and environmental engineering incidental thereto.
  6. Service resulting from the involvement of more separate prime Contracts for construction or for equipment not originally contemplated.
  7. Services in connection with change orders to reflect changes requested by CITY if the resulting change in compensation for Basic Services is not commensurate with the additional services rendered and services resulting from significant delays, changes in price increases occurring as a direct or indirect result of material, equipment or energy shortages.
  8. Additional or extended services during construction made necessary by (1) work damaged by fire or other causes during construction; (2) prolongation of time of Contract on any prime

Contract by more than sixty (60) days; (3) acceleration of the work schedule involving services beyond normal working hours; and (4) default by any Contractor. The CITY will be reimbursed by the Contractor for these additional services, and the ARCHITECT shall prepare the Contract Documents in such a way as to provide for reimbursement by the Contractor to the CITY for the required additional services, including CITY's costs.

9. (1) Preparation of systems operating and maintenance manuals; (2) extensive assistance in the utilization of any equipment or system (except for initial start-up, testing, adjusting and balancing to demonstrate an operating facility as necessary to obtain the initial operating permit but in no case shall this exceed two weeks); and (3) training personnel for operation and maintenance.
10. Preparing to serve or serving as a witness for CITY in any litigation, public hearing or other legal or administrative proceeding involving a Project.
11. Additional services in connection with a Project, including services normally furnished by CITY and services not otherwise provided for in this CONTRACT.
12. Services to make measured drawings of or to investigate existing conditions of facilities or to verify the accuracy of drawings or other information furnished by CITY.
13. Preparing documents for alternative bids requested by CITY for work which is not executed or for out-of-sequence work.
14. Services after completion of the Construction Phase, such as inspections during any guarantee period and reporting observed discrepancies under guarantees called for in any Contract for the Project (except for the 60 day inspection).
15. Inspect and review necessary test borings or other subsurface explorations not covered under professional services during construction. The cost of borings or other subsurface explorations will be paid by the CITY.
16. Provide any services required in connection with re-advertisements for construction bids.

**B. Project Representative(s) Service During Construction**

1. The ARCHITECT shall provide resident inspection services at the CITY'S request. Project Representative(s) will act as requested by the CITY in order to provide more extensive representation at the Project site during the Construction Phase.
2. The duties and responsibilities and the limitation on the authority of the Project Representative(s) is as set forth in Exhibit 1.
3. Through more extensive on-site observations of the work in progress and field checks of materials and equipment by the Project Representative(s) (if furnished) ARCHITECT shall endeavor to provide further protection for CITY against defects and deficiencies in the work, but the furnishing of such Project representation will not make ARCHITECT or CITY responsible for construction means, methods, techniques, sequences or procedures or for safety precautions or programs, or for Contractor(s) failure to perform the construction work in accordance with the Contract Documents.



### ARTICLE 3 – CITY RESPONSIBILITIES

#### CITY SHALL:

- A. Provide complete and detailed information as to its requirements for a Project.
- B. Assist ARCHITECT by placing at the company's disposal all available information pertinent to a project including previous reports and any other data relative to design and construction of a Project.
- C. Furnish to ARCHITECT, as required by him for performance of his Basic Services, data prepared by or services of others, such as core borings, existing building plans, existing site plans, probing and subsurface explorations; appropriate professional interpretations of all of the foregoing; property, boundary, easement, right-of-way, and property descriptions; zoning and deed restrictions; and other special data or consultations not covered in Article 2-A; all of which ARCHITECT may rely upon in performing his services.
- D. Make all provisions for ARCHITECT to enter upon public and private property as required for ARCHITECT to perform its services.
- E. Examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ARCHITECT, obtain advice of an attorney, insurance counselor and other architects as deemed appropriate for such examination and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of ARCHITECT.
- F. Pay all costs incidental to obtaining bids or proposals from Contractors. This includes advertising and mailing, but does not include reimbursement for ARCHITECT'S time to discuss the Contract Documents with bidders or equipment suppliers.
- G. Provide such legal, accounting, independent cost estimating and insurance counseling services as may be required for a Project, and such auditing service as CITY may require to ascertain how or for what purpose any Contractor has used the monies paid under the construction Contract.
- H. The City Manager or designee shall act as CITY'S representative with respect to the work to be performed under this CONTRACT. Such person shall have complete authority to transmit instructions, receive information, interpret and define CITY'S policies and decision with respect to materials, equipment, elements and systems pertinent to ARCHITECT'S services.
- I. Give prompt written notice to ARCHITECT whenever CITY observes or otherwise becomes aware of any defect in a Project.
- J. Furnish, as required, support and fees necessary during the various permit application processes required from all governmental authorities having jurisdiction over the approval, construction and operation of a Project.
- K. Furnish or direct ARCHITECT to provide necessary Additional Services as stipulated in Section 2 of this Contract or other services as required.
- L. Bear all costs incidental to compliance with the requirements of this Section

#### **ARTICLE 4 – PERIOD OF SERVICE**

It is mutually agreed by CITY and ARCHITECT that this Contract is of a continuing nature, subject to termination by either party as hereinafter provided. The period of service shall commence upon execution of this Contract and continue for a period of three (3) years unless otherwise terminated as provided herein or until completion of all outstanding Service authorizations issued within the period of the Contract, unless terminated as otherwise provided herein. At the option of the CITY, the City Manager shall have authority to renew the Contract for up to two (2) additional twelve (12) month periods.

#### **ARTICLE 5 – PAYMENTS TO ARCHITECT**

Method of Payment for Services and Expenses of ARCHITECT - Basic Services. CITY shall pay the ARCHITECT for Basic Services rendered under Article 1 on one of the following bases, the choice to be mutually agreed upon at the time a Project is authorized.

- A. Per Hour, Per Assigned Employee Fee with a not to Exceed Maximum Price – CITY will submit a series of individual tasks or projects as more particularly described herein. Each task to be performed under this Contract shall be assigned to the ARCHITECT for accomplishment by separate written authorization. For each task, CITY shall request ARCHITECT to provide a scope of services and an estimate of cost, for the CITY'S review, including MBE goal setting, as particularly set forth in Article 10.

Upon mutual agreement of the scope of services, ARCHITECT shall develop an estimate of cost based upon a per hour, per assigned employee fee with a "not to exceed" maximum price as provided for herein in accordance with rates set forth in Exhibit 2.

1. The "Per Hour, Per Assigned Employee" fee, shall include all allowable and allocable costs that are incurred in the performance of the work, up to, but not exceeding a predetermined maximum price. Allowable and allocable cost shall include direct labor plus fringe benefits, overhead fee, and direct non-salary expenses. Pending establishment of final approved overhead rates for any period, the ARCHITECT shall be reimbursed at provisional overhead rates subject to appropriate adjustment when the final overhead rates for the fiscal period are established. The overhead rates shall not change the predetermined cost ceiling.
2. For a project that utilizes the "Per Hour, Per Assigned Employee" method of compensation, it is anticipated that the total cost to the CITY for the performance of the services will not exceed the estimated cost and that the ARCHITECT agrees to use his good faith effort to perform his services within such estimated cost. If at any time, as the actual work progresses, the ARCHITECT has reason to believe that the cost for the work will be greater than the estimated cost, the ARCHITECT shall notify the CITY in writing to that effect, giving the revised estimate of such cost for said work or a suggested revised scope of work which will remain within the original estimate of cost.
3. The CITY shall not be obligated to reimburse the ARCHITECT for costs incurred in excess of the estimated cost set forth above, and the ARCHITECT shall not be obligated to continue performance of said work or otherwise to incur cost in excess of the estimated cost set forth above, unless and until the CITY shall have notified the ARCHITECT in writing that such estimated cost has been increased or that a modification of scope of work is acceptable and shall have specified in such notice a revised estimated cost which shall thereupon constitute the revised estimated cost of said work. When and to the extent that the estimated cost has been increased, any costs incurred by the ARCHITECT in excess of the estimated cost prior

to such increases shall be allowable to the same extent as if such cost had been incurred after the increase.

4. Except as otherwise provided, if the ARCHITECT stops performance before completion of the work hereunder because it has incurred costs in the amount of or in excess of the estimated cost set, and the CITY elects not to increase such estimated cost, then the CITY shall pay to the ARCHITECT the balance due on its cost and fee for said work. Both parties shall execute full and binding releases of the party from any and all obligations with regard to the work and the ARCHITECT shall deliver to the CITY copies of the ARCHITECT'S work product subject to receipt of payment due.
  5. The ARCHITECT may elect to waive notifying the CITY and agencies participating in the cost of the Project and is expected to do so whenever the work is close to completion and it is estimated that the cost increase will be small. In such event, if the cost subsequently exceeds that originally estimated by the ARCHITECT, the ARCHITECT may exercise his above obligation to notify the CITY of the cost increase then estimated, but the CITY shall not be obligated to pay for any overrun.
  6. The term "Per Diem" shall mean a fixed hourly rate, which includes direct and indirect labor, overhead, fringe benefits and profit, for each category of personnel employed on the project, plus reimbursement for direct non-salary expenses.
  7. In addition to the above methods, any other mutually agreed upon method of payment may be used.
- B. Additional Service - CITY shall pay ARCHITECT for Additional Services rendered under Article 2 as follows:
1. General - For Additional Services rendered under Article 2, Section (A) paragraphs 1 through 19, on the basis of any method in Article 5(A).
  2. Day-to-Day Consulting Services - For day-to-day Consulting Services not considered as being covered under Article 1, Basic Services of ARCHITECT, on the basis of Payroll Costs Times a Factor of 2.4 for services rendered by principals and employees assigned to the Project.
  3. Special ARCHITECTs - For services and reimbursable expenses of special architects or subconsultants (when included in special task authorization) employed by ARCHITECT, the amount billed to ARCHITECT therefore times a factor of 1.10.
  4. Serving as a Witness - For the services for the principals and employees as architects or witnesses in any litigation, hearing or proceeding, on the basis of payroll costs times a factor of 2.4.
  5. Project Representative(s) Services - For Resident Project Representative(s) Services during construction, on any mutually agreed basis.
  6. Reimbursable Expenses - In addition to payments provided for in Article 5 (A) and (B), CITY shall pay ARCHITECT the actual costs of all reimbursable expenses incurred in connection with all Basic and Additional Services.

C. Time of Payment

ARCHITECT shall submit monthly statements for Basic and Additional Services rendered and for reimbursable expenses incurred. These monthly statements shall be based upon ARCHITECT'S payroll cost times the appropriate factor. CITY shall make monthly payments in response to ARCHITECT'S monthly statements, and as further outlined in subsection (F) below.

D. Payroll Cost

The payroll costs used as a basis for payment mean the salaries and wages paid to all personnel engaged directly on the Project, including, but not limited to, engineers, surveyors, designers, drafters, specifications writers, estimators, other technical personnel, administrative personnel, typists and clerks; plus the cost of customary and statutory benefits including, but not limited to, social security contributions, unemployment, excise and payroll taxes, workmen's compensation, health and retirement benefits, sick leave, vacation and holiday pay applicable thereto. The amount of customary and statutory benefits of all personnel will be considered equal to 30% of salaries and wages.

E. Reimbursable Expenses

Reimbursable expenses shall mean the actual expense incurred directly or indirectly in connection with the Project to include but not be limited to: transportation and meals incidental thereto; obtaining bids or proposals from Contractor(s), furnishing and maintaining field office facilities; phone calls and faxes, excluding those to home office; reproduction of reports, Drawings and Specifications and similar Project related items in addition to those required under Article 1; and, if authorized in advance by CITY, overtime work requiring higher than regular rates.

F. Provision for Prompt Payment

1. If CITY fails to make any payment due ARCHITECT for services and expenses within thirty (30) days after receipt of a non-contested ARCHITECT'S bill, the amounts due ARCHITECT shall include a charge at the rate of 1% per month for any time in excess of thirty (30) days from the date of invoice and in addition ARCHITECT may, after giving thirty (30) days written notice to CITY, suspend services under this Contract until he has been paid in full all amounts due him for services and expenses.
2. If this Contract is terminated by CITY during any phase of the Basic Services, ARCHITECT will be paid for services rendered during that phase on the basis of payroll costs times a factor of 2.4 for services rendered during that phase to date of termination by principals and employees assigned to Project, or the allocated percentage for that phase, whichever is less. In the event of any termination, ARCHITECT will be paid for all unpaid Additional Services as provided in this paragraph.

**ARTICLE 6 - TRUTH-IN NEGOTIATION CERTIFICATE**

Signature of this Contract by the ARCHITECT shall also act as the execution of a truth-in-negotiation certificate certifying that the wage rates, over-head charges, and other costs used to determine the compensation provided for in this Contract are accurate, complete and current as of the date of the Contract and no higher than those charged to the ARCHITECT'S most favored customer for the same or substantially similar service.

The said rates and costs shall be adjusted to exclude any significant sums should the CITY determine that the rates and costs were increased due to inaccurate, incomplete or non-current wage rates or due to inaccurate representations of fees paid to outside engineers. The CITY shall exercise its right under this Article within three (3) years following final payment.

## **ARTICLE 7 - TERMINATION**

This Contract may be cancelled by the ARCHITECT upon thirty (30) days prior written notice to the CITY's representative in the event of substantial failure by the CITY to perform in accordance with the terms of this Contract through no fault of the ARCHITECT; provided the CITY fails to cure same within that thirty (30) day period. It may also be terminated, in whole or in part, by the CITY, with or without cause, immediately upon written notice to the ARCHITECT. Unless the ARCHITECT is in breach of this Contract, the ARCHITECT shall be paid for services rendered to the CITY's satisfaction through the date of termination. After receipt of a Termination Notice and except as otherwise directed by the CITY the ARCHITECT shall:

- A. Stop work on the date and to the extent specified.
- B. Terminate and settle all orders and subcontracts relating to the performance of the terminated work.
- C. Transfer all work in progress, completed work, and other materials related to the terminated work to the CITY in the format acceptable to CITY.
- D. Continue and complete all parts of the work that have not been terminated.

Prior to settlement upon termination of this Contract, the ARCHITECT and the CITY shall execute and deliver a mutual release by each party to the other of all claims and demands of any nature whatsoever arising under or by virtue of this Contract.

## **ARTICLE 8 - PERSONNEL**

The ARCHITECT represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Contract. Such personnel shall not be employees of or have any Contractual relationship with the CITY.

All of the services required hereunder shall be performed by the ARCHITECT or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services.

The ARCHITECT shall furnish services in a manner consistent with industry standards and to a level of professional skill generally acceptable in the industry with regard to services of this kind.

The ARCHITECT agrees that it is fully responsible to the CITY for the acts and omissions of sub-consultants and of persons either directly or indirectly employed by the ARCHITECT. Nothing contained herein shall create any Contractual relationship between any subcontractor and the CITY.

All of the ARCHITECT's personnel (and all Sub-consultants) while on CITY premises, will comply with all CITY requirements governing conduct, safety, and security.

## **ARTICLE 9 - SUBCONTRACTING**

The CITY reserves the right to accept the use of a sub-consultant or 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 Contract. The ARCHITECT is encouraged to seek minority and women business enterprises for participation in subcontracting opportunities.

If a sub-consultant fails to perform or make progress, as required by this Contract, and it is necessary to replace the sub-consultant to complete the work in a timely fashion, the ARCHITECT shall promptly do so, subject to acceptance of the new sub-consultant by the CITY.

Once a sub-consultant is listed in an ARCHITECT's response to an RFP or a bid and the ARCHITECT wishes to change a sub-consultant, if the response or bid has been accepted by the CITY, then specific approval from CITY staff must be given prior to any change in sub-consultants. The CITY shall not unreasonably deny the request. However, the ARCHITECT must demonstrate that the sub-consultant being replaced is unable to perform the work, is performing the work poorly or untimely, or is unable to meet the requirements of the Contract with the CITY. The CITY will not address issues related to the ARCHITECT's specific agreement with the sub-consultant including issues of pricing.

If sub-consultant(s) are used, the ARCHITECT shall use only licensed and insured sub-consultant(s), and shall require any sub-consultant, as may be applicable, to provide a payment bond. All sub-consultants shall be required to promptly make payments to any person who, directly or indirectly, provides services or supplies under this Contract.

The ARCHITECT shall be responsible for the performance of all sub-consultants.

#### **ARTICLE 10 - M/WBE PARTICIPATION**

Minority/Women-Owned Business Enterprises ("M/WBE") shall have the opportunity to participate in this project. ARCHITECT is hereby informed that the CITY has established a goal of a minimum of 15% participation of M/WBE. A good faith effort will be made to hire M/WBE.

In keeping with the CITY'S policy, the ARCHITECT further agrees to hire minority sub-consultants to work on this project.

In accordance with the city's M/WBE Ordinance, the ARCHITECT agrees to the M/WBE participation for this Contract and to abide by all provisions of the M/WBE Ordinance and understands that failure to comply with any of the requirements will be considered a breach of Contract.

The ARCHITECT agrees to maintain all relevant records and information necessary to document compliance with the City's M/WBE Ordinance and will allow the CITY to inspect such records.

#### **ARTICLE 11- FEDERAL AND STATE TAX**

The CITY is exempt from payment of Florida State Sales and Use Tax. The CITY will sign an exemption certificate submitted by the ARCHITECT. The ARCHITECT shall not be exempted from paying sales tax to its suppliers for materials used to fulfill Contractual obligations with the CITY, nor is the ARCHITECT authorized to use the CITY'S Tax Exemption Number in securing such materials.

The ARCHITECT shall be responsible for payment of its own and its share of its employees' payroll, payroll taxes, and benefits with respect to this Contract.

#### **ARTICLE 12- INSURANCE**

A. Prior to execution of this Contract by the CITY, the ARCHITECT shall provide certificates evidencing insurance coverage as required hereunder. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. The Certificates shall

clearly indicate that the ARCHITECT has obtained insurance of the type, amount, and classification as required for strict compliance with this ARTICLE and that no material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to the CITY'S representative. Compliance with the foregoing requirements shall not relieve the ARCHITECT of its liability and obligations under this Contract.

- B. The ARCHITECT shall maintain during the term of this Contract, standard Professional Liability Insurance in the minimum amount of \$1,000,000.00 per occurrence.
- C. The ARCHITECT shall maintain, during the life of this Contract, commercial general liability, including Contractual liability insurance in the amount of \$500,000.00 per occurrence to protect the ARCHITECT from claims for damages for bodily and personal injury, including wrongful death, as well as from claims of property damages which may arise from any operations under this Contract, whether such operations be by the ARCHITECT or by anyone directly or indirectly employed by or Contracting with the ARCHITECT.
- D. The ARCHITECT shall maintain, during the life of this Contract, comprehensive automobile liability insurance in the minimum amount of \$500,000.00 combined single limit for bodily injury and property damages liability to protect the ARCHITECT from claims for damages for bodily and personal injury, including death, as well as from claims for property damage, which may arise from the Ownership, use, or maintenance of owned and non-owned automobiles, including, but not limited to, leased and rented automobiles whether such operations be by the ARCHITECT or by anyone, directly or indirectly, employed by the ARCHITECT.
- E. The parties to this Contract shall carry Workers' Compensation Insurance and Employer's Liability Insurance for all employees as required by Florida Statutes. In the event that a party does not carry Workers' Compensation Insurance and chooses not to obtain same, then such party shall in accordance with Section 440.05, Florida Statutes, apply for and obtain an exemption authorized by the Department of Insurance and shall provide a copy of such exemption to the CITY.
- F. All insurance, other than Professional Liability and Workers' Compensation, to be maintained by the ARCHITECT shall specifically include the CITY as an "Additional Insured".

#### **ARTICLE 13 - INDEMNIFICATION**

To the extent allowed by law, including section 725.06(2), Florida Statutes, ARCHITECT shall indemnify and save harmless and defend the CITY, its agents, servants, and employees from and against any and all claims, liability, losses, and/or causes of action which may arise from any negligent act or omission of the ARCHITECT, its agents, servants, or employees in the performance of services under this Contract.

The ARCHITECT shall defend all actions arising from ARCHITECT's negligent acts, in the name of the CITY, when applicable, and all costs and fees associated therewith shall be the responsibility of the ARCHITECT.

**PURSUANT TO FLORIDA STATUTES §558.0035 (2013), AN INDIVIDUAL EMPLOYEE OR AGENT MAY NOT BE HELD INDIVIDUALLY LIABLE FOR NEGLIGENCE.**

Nothing contained in this Article shall be construed or interpreted as consent by the CITY to be sued, nor as a waiver of sovereign immunity beyond the limits provided in Section 768.28, Florida Statutes.

#### **ARTICLE 14 - SUCCESSORS AND ASSIGNS**

The CITY and the ARCHITECT each binds itself and its partners, successors, executors, administrators, and assigns to the other party of this Contract and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Contract. Except as above, neither the CITY nor the ARCHITECT shall assign, sublet, convey or transfer its interest in this Contract without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the CITY which may be a party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the CITY and the ARCHITECT.

#### **ARTICLE 15 - DISPUTE RESOLUTION, LAW, VENUE AND REMEDIES**

All claims arising out of this Contract or its breach shall be submitted first to mediation in accordance with the local rules for mediation in Palm Beach County, Florida. The parties shall share the mediator's fee equally. The mediation shall be held in Palm Beach County, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

This Contract shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Contract will be held in Palm Beach County, Florida. No remedy herein 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 given hereunder 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 hereunder shall preclude any other or further exercise thereof.

#### **ARTICLE 16 - REMEDIES**

No remedy herein 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 given hereunder 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 hereunder shall preclude any other or further exercise thereof.

#### **ARTICLE 17 - CONFLICT OF INTEREST**

The ARCHITECT represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance or services required hereunder, as provided for in Florida Statutes, Section 112.311. The ARCHITECT further represents that no person having any such conflicting interest shall be employed for said performance.

The ARCHITECT shall promptly notify the CITY's representative, in writing, by certified mail, of all potential conflicts of interest for any prospective business association, interest or other circumstance which may influence or appear to influence the ARCHITECT's judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the ARCHITECT may undertake and request an opinion of the CITY as to whether the association, interest or circumstance would, in the opinion of the CITY, constitute a conflict of interest if entered into by the ARCHITECT. The CITY agrees to notify the ARCHITECT of its opinion by certified mail within thirty (30) days of receipt of notification by the ARCHITECT. If, in the opinion of the



CITY, the prospective business association, interest or circumstance would not constitute a conflict of interest by the ARCHITECT, the CITY shall so state in the notification and the ARCHITECT shall, at its option, enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with respect to services provided to the CITY by the ARCHITECT under the terms of this Contract.

#### **ARTICLE 18 – DELAYS AND EXTENSION OF TIME**

The ARCHITECT shall not be considered in default by reason of any failure in performance if such failure arises out of causes reasonably beyond the control of the ARCHITECT or its sub-consultants and without their fault or negligence. Such causes include, but are not limited to: acts of God; natural or public health emergencies; labor disputes; freight embargoes; and abnormally severe and unusual weather conditions.

Upon the ARCHITECT's request, the CITY shall consider the facts and extent of any failure to perform the work and, if the ARCHITECT'S failure to perform was without its or its sub-ARCHITECTS fault or negligence, the Contract Schedule and/or any other affected provision of this Contract shall be revised accordingly; subject to the CITY'S rights to change, terminate, or stop any or all of the work at any time.

If the ARCHITECT is delayed at any time in the process of the work by any act or neglect of the CITY or its employees, or by any other ARCHITECT employed by the CITY, or by changes ordered by the CITY or in an unusual delay in transportation, unavoidable casualties, or any causes beyond the ARCHITECT'S control, or by delay authorized by the CITY pending negotiation or by any cause which the CITY shall decide justifies the delay, then the time of completion shall be extended for any reasonable time the CITY may decide. No extension shall be made for delay occurring more than seven (7) days before claim therefore is made in writing to the CITY. In the case of continuing cause of delay, only one (1) claim is necessary.

This Article does not exclude the recovery of damages for delay by either party under other provisions in the Contract.

#### **ARTICLE 19 - INDEBTEDNESS**

The ARCHITECT shall not pledge the CITY's credit or make it a guarantor of payment or surety for any Contract, debt, obligation, judgment, lien, or any form of indebtedness. The ARCHITECT further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Contract.

#### **ARTICLE 20 - DISCLOSURE AND OWNERSHIP OF DOCUMENTS**

The ARCHITECT shall deliver to the CITY's representative for approval and acceptance, and before being eligible for final payment of any amounts due, all documents and materials prepared for the CITY under this Contract.

All written and oral information not in the public domain or not previously known, and all information and data obtained, developed, or supplied by the CITY or at its expense will be kept confidential by the ARCHITECT and will not be disclosed to any other party, directly or indirectly, without the CITY's prior written consent unless required by a lawful order. All drawings, maps, sketches, programs, databases, reports and other data developed, or purchased, under this Contract for or at the CITY's expense shall be and remain the CITY's property and may be reproduced and reused at the discretion of the CITY. The CITY shall hold the ARCHITECT harmless should the CITY use any of the ARCHITECT's work products for a purpose other than that intended by the ARCHITECT.

The CITY and the ARCHITECT shall comply with the provisions of Chapter 119, Florida Statutes (Public Records Law).

All covenants, Contracts, representations and warranties made herein, or otherwise made in writing by any party pursuant hereto, including but not limited to any representations made herein relating to disclosure or ownership of documents, shall survive the execution and delivery of this Contract and the consummation of the transactions contemplated hereby.

#### **ARTICLE 21 – PUBLIC RECORDS**

The ARCHITECT shall deliver to the CITY'S representative for approval and acceptance, and before being eligible for final payment of any amounts due, all documents and materials prepared by and for the CITY under this Contract.

All written and oral information not in the public domain or not previously known, and all information and data obtained, developed, or supplied by the CITY or at its expense will be kept confidential by the ARCHITECT and will not be disclosed to any other party, directly or indirectly, without the CITY'S prior written consent unless required by a lawful order. All drawings, maps, sketches, programs, data base, reports and other data developed, or purchased, under this Contract for or at the CITY'S expense shall be and remain the CITY'S property and may be reproduced and reused at the discretion of the CITY.

The CITY and the Architect shall comply with Florida's Public Records Act, Chapter 119, Florida Statutes, and, if determined to be acting on behalf of the City as provided under section 119.011(2), Florida Statutes, specifically agrees to:

- (a) Keep and maintain public records required by the City to perform the service.
- (b) Upon request from the City's custodian of public records or designee, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- (c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Contract and following completion of this Contract if the Architect does not transfer the records to the City.
- (d) Upon completion of this Contract, transfer, at no cost, to the City all public records in possession of the Architect or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion of the Contract, the Architect shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Contract, the Architect shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records or designee, in a format that is compatible with the information technology systems of the City.

**IF THE ARCHITECT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS [THE OFFICE OF THE CITY CLERK] OR DESIGNEE AT 561-845-4090,**

**CROBINSON@RIVIERABCH.COM, 600 WEST BLUE HERON BLVD.,  
RIVIERA BEACH, FL 33404.**

**ARTICLE 22 - INDEPENDENT CONTRACTOR RELATIONSHIP**

The ARCHITECT is, and shall be, in the performance of all work services and activities under this Contract, an Independent Contractor, and not an employee, agent, or servant of the CITY. All persons engaged in any of the work or services performed pursuant to this Contract shall at all times, and in all places, be subject to the ARCHITECT'S sole direction, supervision, and control. The ARCHITECT shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the ARCHITECT'S relationship and the relationship of its employees to the CITY shall be that of an Independent Contractor and not as employees or agents of the CITY.

The ARCHITECT does not have the power or authority to bind the CITY in any promise, CONTRACT or representation other than as specifically provided for in this Contract.

**ARTICLE 23 - CONTINGENT FEES**

The ARCHITECT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the ARCHITECT to solicit or secure this Contract 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 the ARCHITECT, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Contract.

**ARTICLE 24 - ACCESS AND AUDITS**

The ARCHITECT shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the work for at least three (3) years after completion of this Contract. The CITY shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours, at the ARCHITECT'S place of business.

**ARTICLE 25 - NONDISCRIMINATION**

The ARCHITECT warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, political affiliation, marital status, handicap, or sexual orientation. Further, ARCHITECT shall not discriminate or permit discrimination against any employee or an applicant for employment on the basis of race, color, sex, religion, political affiliation, natural origin, ancestry, marital status, sexual orientation or handicap.

**ARTICLE 26 - ENFORCEMENT COSTS**

All parties shall be responsible for their own attorneys' fees, court costs and expenses if any legal action or other proceeding is brought for any dispute, disagreement, or issue of construction or interpretation arising hereunder whether relating to the Contract's execution, validity, the obligations provided therein, or performance of this Contract, or because of an alleged breach, default or misrepresentation in connection with any provisions of this Contract.

**ARTICLE 27 - AUTHORITY TO PRACTICE**

The ARCHITECT hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business, and that it will at all times conduct its business activities in a reputable manner. Proof of such licenses and approvals shall be submitted to the CITY'S representative upon request.

The ARCHITECT shall be solely responsible for obtaining and complying with all necessary permits, licenses, approvals and authorizations required for any work done pursuant to this Contract from any federal, state, regional, county or CITY agency.

#### **ARTICLE 28 - SEVERABILITY**

If any term or provision of this Contract, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Contract, or the application of such terms or provisions, 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 Contract shall be deemed valid and enforceable to the extent permitted by law.

#### **ARTICLE 29 - PUBLIC ENTITY CRIMES**

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

#### **ARTICLE 30 - MODIFICATIONS OF WORK**

The CITY reserves the right to make changes in the Scope of Work, including alterations, reductions therein or additions thereto. Upon receipt by the ARCHITECT of the CITY'S notification of a contemplated change, the ARCHITECT shall, in writing: (1) provide a detailed estimate for the increase or decrease in cost due to the contemplated change, (2) notify the CITY of any estimated change in the completion date, and (3) advise the CITY if the contemplated change shall affect the ARCHITECT'S ability to meet the completion dates or schedules of this Contract.

If the CITY so instructs in writing, the ARCHITECT shall suspend work on that portion of the Scope of Work affected by the contemplated change, pending the CITY'S decision to proceed with the change.

If the CITY elects to make the change, the CITY shall initiate a Contract Amendment and the ARCHITECT shall not commence work on any such change until such written amendment is signed by the ARCHITECT and approved and executed by the CITY BOARD FOR THE CITY OF RIVIERA BEACH or its designated representative.

#### **ARTICLE 31 - NOTICE**

All notices required in this Contract shall be sent by certified mail, return receipt requested, and if sent to the CITY shall be mailed to:

**CITY OF RIVIERA BEACH  
BRYNT JOHNSON, DIRECTOR OF PUBLIC WORKS  
2391 AVENUE L  
RIVIERA BEACH, FL 33404**

and if sent to the ARCHITECT shall be mailed to:

**REG ARCHITECTS, INC.  
c/o RICK GONZALEZ, PRESIDENT  
300 CLEMATIS STREET, 3<sup>RD</sup> FLOOR  
WEST PALM BEACH, FLORIDA 33401**

**ARTICLE 32 - ENTIRETY OF CONTRACTUAL CONTRACT**

The CITY and the ARCHITECT agree that this Contract and any attachments hereto or other documents as referenced in the Contract sets forth the entire CONTRACT between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Contract may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto in accordance with Article 30- Modifications of Work.

**ARTICLE 33 - WAIVER**

Failure of the CITY to enforce or exercise any right(s) under this Contract shall not be deemed a waiver of CITY's right to enforce or exercise said right(s) at any time thereafter.

**ARTICLE 34 - PREPARATION**

CITY and CONTRACTOR acknowledge that each has had the benefit of counsel or the ability to retain counsel and full and free access to counsel in connection with the negotiation and execution of Contract, that each has consulted or could have consulted with counsel in connection with this Contract, and that each has had the opportunity, prior to execution, to read this Contract and fully understand all of its provisions. Should any provision in this Contract require judicial or quasi-judicial interpretation it is agreed that a Court or other dispute resolution forum interpreting or enforcing the same shall not apply a presumption that the terms hereof shall be more strictly construed against any party by reason of the rule construction that a document is to be construed more strictly against the party who itself or through its agent has prepared the same. CITY and CONTRACTOR agree that this Contract is the product and result of a joint effort.

**ARTICLE 35 - MATERIALITY**

All provisions of the Contract shall be deemed material, in the event ARCHITECT fails to comply with any of the provisions contained in this Contract or exhibits, amendments and addenda attached hereto, said failure shall be deemed a material breach of this Contract and CITY may at its option and without notice terminate this Contract.

**ARTICLE 36 - REPRESENTATIONS/BINDING AUTHORITY**

ARCHITECT has full power, authority and legal right to execute and deliver this Contract and perform all of its obligations under this Contract. By signing this Contract, RICK GONZALEZ, PRESIDENT, hereby represents to the CITY that he has the authority and full legal power to execute this Contract and any and all documents necessary to effectuate and implement the terms of this Contract on behalf of the party for whom he is signing and to bind and obligate such party with respect to all provisions contained in this Contract.

#### **ARTICLE 37 - EXHIBITS**

Each exhibit referred to in this Contract forms an essential part of this Contract. The exhibits, if not physically attached, should be treated as part of this Contract and are incorporated herein by reference.

#### **ARTICLE 38 - CONTRACT DOCUMENTS AND CONTROLLING PROVISIONS**

This Contract consists of the Contract, Exhibit "1", Exhibit "2" and RFQ No. 825-17-1. The ARCHITECT agrees to be bound by all the terms and conditions set forth in this Contract and RFQ NO. 825-17-1. To the extent there exists a conflict between this Contract and RFQ NO. 825-17-1, the terms, conditions, covenants, and/or provisions of this Contract shall prevail. Wherever possible, the provisions of such documents shall be construed in such a manner as to avoid conflicts between provisions of the various documents.

#### **ARTICLE 39 - LEGAL EFFECT**

This Contract shall not become binding and effective until approved by both parties.

#### **ARTICLE 40 - NOTICE OF COMPLAINTS OR SUITS**

Each party will promptly notify the other of any complaint, claim, suit or cause of action threatened or commenced against it which arises out of or relates, in any manner, to the performance of this Contract. Each party agrees to cooperate with the other in any investigation either may conduct, the defense of any claim or suit in which either party is named, and shall do nothing to impair or invalidate any applicable insurance coverage.

#### **ARTICLE 41 - SURVIVABILITY**

Any provision of this Contract which is of a continuing nature or imposes an obligation which extends beyond the term of this Contract shall survive its expiration or earlier termination.

#### **ARTICLE 42 - DEFAULT**

Notwithstanding anything contained in this Contract to the contrary, the parties agree that the occurrence of any of the following shall be deemed a material event of default and shall be grounds for termination:

- A. The filing of a lien by any subcontractor or third tier subcontractor including, but not limited to material, men, suppliers, or laborers, upon any property, right of way, easement, other interest in land or right to use such land within the territorial boundaries of the CITY which lien is not satisfied, discharged or contested in a court of law within thirty (30) days from the date of notice to the ARCHITECT;
- B. The filing of any judgment lien against the assets of the ARCHITECT related to the performance of this Contract which is not satisfied, discharged or contested in a court of law within thirty (30) days from the date of notice to the ARCHITECT; or
- C. The filing of a petition by or against the ARCHITECT for relief under the Bankruptcy Code, or for its reorganization or for the appointment of a receiver or trustee of the ARCHITECT or the ARCHITECT'S property; or an assignment by the ARCHITECT for the benefit of creditors; or the taking possession of the property of the ARCHITECT by any governmental officer or agency

pursuant to statutory authority for the dissolution or liquidation of the ARCHITECT; or if a temporary or permanent receiver or trustee shall be appointed for the ARCHITECT or for the ARCHITECT'S property and such temporary or permanent receiver or Trustee shall not be discharged within thirty (30) days from the date of appointment.

The ARCHITECT shall provide written notice to the CITY of the occurrence of any event of default within ten (10) days of the ARCHITECT'S receipt of notice of any such default.

#### **ARTICLE 43 - WAIVER OF SUBROGATION**

The ARCHITECT hereby waives any and all rights to Subrogation against the CITY, its officers, employees and agents for each required policy. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss CONTRACT to waive subrogation without an endorsement, then the ARCHITECT shall agree to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which a condition to the policy specifically prohibits such an endorsement, or voids coverage should the ARCHITECT enter into such a CONTRACT on a pre-loss basis.

#### **ARTICLE 44 - RIGHT TO REVIEW**

The CITY, by and through its Risk Management Department, in cooperation with the Contracting/monitoring department, reserves the right to review, reject or accept any required policies of insurance, including limits, coverages, or endorsements, therein from time to time throughout the term of this Contract. The CITY reserves the right, but not the obligation, to review and reject any insurer providing coverage because of poor financial condition or failure to operate legally.

#### **ARTICLE 45 - REUSE OF DOCUMENTS**

All documents including Drawings and Specifications furnished by ARCHITECT pursuant to this Contract are instruments of his services in respect of a Project. They are not intended or represented to be suitable for reuse by CITY or others on extensions of the Project or any other project. Any reuse of said documents will be at CITY'S sole risk and without liability or legal exposure to ARCHITECT, and CITY shall indemnify and hold harmless ARCHITECT from all claims, damages, losses and expenses including attorney's fees arising out of or resulting there from. All preliminary and final design drawings and specification, and the drawings conforming to construction records become the property of the CITY.

#### **ARTICLE 46 - OPINION OF PROBABLE PROJECT COST**

Since ARCHITECT has no control over the cost of labor, materials or equipment, or over the Contractor(s)' methods of determining prices, or over competitive bidding or market conditions, his opinions of probable Project Cost or Construction Cost provided for herein are to be made on the basis of his experience and qualifications and represent his best judgment as a design professional familiar with the construction industry, but ARCHITECT cannot and does not guarantee that proposals, bids or the Construction Cost will not vary from opinions of probable cost prepared by him. If prior to the Biding or Negotiating Phase, CITY wishes greater assurance as to Project or Construction Cost he shall employ an independent cost estimator.

#### **ARTICLE 47 - SUBRECIPIENT REQUIREMENTS**

ARCHITECT agrees and recognizes that CITY may be seeking reimbursement in whole or in part for the cost of the work contemplated by this Contract from a third party, including but not limited to, various County, State, and Federal agencies or subdivisions. The reimbursement sought by CITY may be dependent on,

amongst other items, ARCHITECT's compliance with the terms and conditions of this Contract and the furnishing of Subrecipient Requirement information by ARCHITECT to CITY. ARCHITECT agrees to fully cooperate with CITY in any requests of CITY to fulfill CITY's Subrecipient Requirements and to otherwise obtain the sought after reimbursement. ARCHITECT agrees and recognizes that the failure to comply with all the terms and conditions of this Contract and the furnishing of Subrecipient Requirement information to CITY by ARCHITECT may result in the CITY failing to obtain the sought after reimbursement in whole or in part for the cost of the work contemplated by this Contract and that such failure by the ARCHITECT shall constitute a material default under this Contract.

**ARTICLE 48 – WAIVER OF TRIAL BY JURY**

IN THE EVENT OF LITIGATION ARISING FROM THIS CONTRACT, CITY AND CONTRACTOR KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHT TO A TRIAL BY JURY. CITY AND CONTRACTOR HEREBY ACKNOWLEDGE THAT THIS WAIVER PROVISION IS A MATERIAL INDUCEMENT FOR EACH PARTY AGREEING TO ENTER INTO THIS CONTRACT.

**SIGNATURES ON FOLLOWING PAGE**



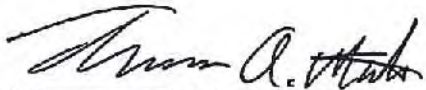
**CONTINUING CONTRACT WITH THE CITY OF RIVIERA BEACH**

IN WITNESS WHEREOF, the Parties unto this Contract have set their hands and seals on the day and date first written above.

SEAL

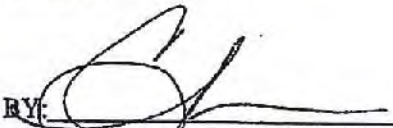
CITY OF RIVIERA BEACH

REG ARCHITECTS, INC.

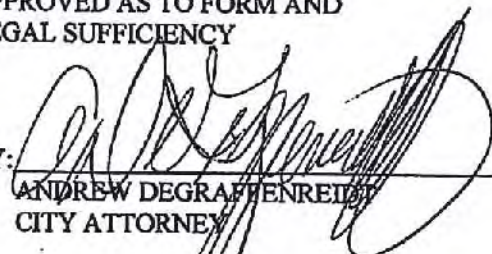
BY:   
\_\_\_\_\_  
THOMAS A. MASTERS  
MAYOR

BY:  AIA.  
\_\_\_\_\_  
RICK GONZALEZ  
PRESIDENT

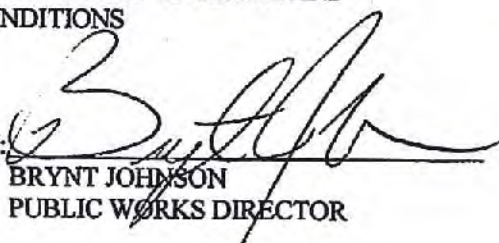
ATTEST:

  
BY: \_\_\_\_\_  
CLAUDENE L. ANTHONY  
CERTIFIED MUNICIPAL CLERK  
CITY CLERK

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

BY:   
\_\_\_\_\_  
ANDREW DEGRAFFENREID  
CITY ATTORNEY

APPROVED AS TO TERMS AND  
CONDITIONS

BY:   
\_\_\_\_\_  
BRYNT JOHNSON  
PUBLIC WORKS DIRECTOR

DATE: 6/29/17

## EXHIBIT 1

### Duties, Responsibilities and Limitations of the Authority of Construction Administrator.

#### GENERAL.

Construction Administrator is the ARCHITECT's Agent. His dealings in matters pertaining to the on-site work will in general be only with the CITY, ARCHITECT and Contractor. His dealings with subcontractors will only be through or with the full knowledge of Contractor or his superintendent.

#### DUTIES AND RESPONSIBILITIES.

Construction Administrator shall:

1. Schedules: Review the progress schedule, schedule of Shop Drawing submissions, schedule of values and other schedules prepared by Contractor and consult with ARCHITECT concerning their acceptability.
2. Conferences: Attend preconstruction conferences. Arrange a schedule of progress meetings and other job conferences and notify in advance those expected to attend. Attend meetings and maintain and circulate copies of minutes thereof.
3. Liaison:
  - a. Serve as ARCHITECT'S liaison with Contractor, working principally through Contractor's superintendent and assist him in understanding the intent of the Contract Documents. Assist ARCHITECT in serving as CITY'S liaison with Contractor when Contractor's operations affect CITY'S on-site operations.
  - b. Assist in obtaining from CITY additional details or information, when required at the job site for proper execution of the Work.
  - c. In the interest of preserving the proper channels of communication, advise ARCHITECT of any direct communication between CITY and Contractor.
4. Shop Drawings and Samples:
  - a. Receive and record date of receipt of Shop Drawings and samples which has been furnished by Contractor.
  - b. Review the Shop Drawings for conformance with the information given in the Contract Documents.
  - c. Provide review and approval of Shop Drawings (as that term is defined in the General Conditions of the Project Contract Documents) and samples, the results of tests and inspections and other data which any Contractor is required to submit, but only for conformance with the design concept of the project and compliance with the information given in the Contract Documents; determine the acceptability of substitute materials and equipment proposed by Contractor (S); and receive and review (for general content as required by the Specifications) maintenance and operating instructions, schedules, guarantees, bonds and certificates of inspection which are to be assembled by

**EXHIBIT 1 (Cont'd.)**

Contractor in accordance with the Contract Documents.

**5. Review of Work, Rejection of Defective Work, Inspections and Tests:**

- a. Conduct on-site observations of the Work in progress to assist ARCHITECT in determining that the project is proceeding in accordance with the Contract Documents and that completed Work will conform to the Contract Documents.
- b. Report to ARCHITECT whenever he believes that any Work is unsatisfactory, faulty or defective or does not conform to the Contract Documents, or has been damaged, or does not meet the requirements of any inspections, test or approvals required to be made; and advise ARCHITECT when he believes work should be corrected or rejected or should be uncovered for observation, or requires special testing or inspection.
- c. Verify that tests, equipment and systems startups and operating and maintenance instructions are conducted as required by the Contract Documents and in presence of the required personnel, and that Contractor maintains adequate records thereof; observe, record and report appropriate details relative to the test procedures and startups.
- d. Accompany CITY and visiting inspectors representing public or other agencies having jurisdiction over the Project, record the outcome of these inspections.
- e. Through more extensive on-site observations of the work in progress and field checks of materials and equipment by the Construction Administrator and assistants, ARCHITECT shall endeavor to provide further protection for CITY against defects and deficiencies in the work, but the furnishing of such Construction Administrator will not make ARCHITECT responsible for construction means, methods, techniques, sequences or procedures or for safety precautions or programs.

**6. Interpretation of Contract Documents:**

Transmit to Contractor clarification and interpretation of the Contract Documents.

**7. Modifications:**

- a. Consider and evaluate Contractor's suggestion for modifications in Drawings or Specifications and report them with recommendations to ARCHITECT.
- b. Prepare routine change orders as required; he may, as CITY'S representative, require special inspection or testing of the work; he shall act as interpreter of the performance there under by the parties thereto and shall make decisions on all claims of CITY and Contractor(s) relating to the execution and progress of the Work and all other matters and questions related thereto.
- c. Process Contract change orders to reflect final measured Contract quantities and to reflect changes in the Contract Drawings and Specifications.

**8. Records:**

- a. Maintain at the job site orderly files for correspondence, reports of job conferences, Shop Drawings and sample submissions, reproductions of original Contract Documents including all addenda, change orders, field orders, additional Drawings issued subsequent to the execution of the Contract, ARCHITECT'S clarifications and interpretations of the Contract Documents, progress reports and other Project-related documents.

**EXHIBIT 1 (Cont'd.)**

- b. Keep a diary or log book and Daily Construction Reports.
- c. Advise ARCHITECT whenever Contractor is not currently maintaining an up-to-date copy of Record Drawings at the site.
- d. Prepare and maintain a set of marked prints for use in future comparison with the Contractor's record set.

**9. Reports:**

- a. Furnish ARCHITECT periodic reports as required of progress of the Work and of Contractor's compliance with the approved progress schedule, schedule of Shop Drawing submissions and other schedules.
- b. Consult with ARCHITECT in advance of scheduled major tests, inspections or start of important phases of the Work.
- c. Prepare and submit monthly reports, with the required number of copies for any participating Federal or State agency, concerning the general progress of the project.
- d. Prepare monthly narrative report for submittal to CITY on project progress.

**10. Payment Requisitions:**

- a. Based on his on-site observations as an experienced and qualified professional and on his review of Contractor(s) and approve in writing payments to Contractor(s) in such amounts; such approval of payment will constitute a representation to CITY, based on such observations and review, that the Work has progressed to the point indicated and that, to the best of his knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents ( subject to an evaluation of the Work as a functioning Project upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents , and to any qualifications stated in his approval), but by approving an application for payment ARCHITECT will not be deemed to have represented that he has made any examination to determine how or for what purposes any Contractor has used the monies paid on account of the Contract Price, or that title to any of the Contractor(s)' work , materials, or equipment has passed to CITY free and clear of any lien, claims, security interests or encumbrances.
- b. Receive and check Contractor(s)' or subcontractor's payrolls for compliance with the provisions of the Contract.

**11. Guarantees, Certificates, Maintenance and Operation Manuals:**

During the course of the Work verify that guarantees, certificates, maintenance and operation manuals and other data required be assembled and furnished by Contractor are applicable to the items actually installed; and deliver these data to ARCHITECT for his review and forwarding to CITY prior to final acceptance of the Project.

**EXHIBIT 1 (Cont'd.)**

**12. Completion:**

- a. Conduct final inspection in the company of ARCHITECT, CITY, and Contractor and prepare a final list of items to be corrected.
- b. Verify that all items on final list have been corrected and make recommendations to ARCHITECT concerning acceptance.

**LIMITATIONS OF AUTHORITY.**

**The Construction Administrator:**

1. Shall not undertake any of the responsibilities of Contractor, subcontractors or Contractor's superintendent.
2. Shall not expedite Work of the Contractor.
3. Shall not advise on or issue directions as to safety precautions and programs in connection with the Work.
4. Shall not assist Contractor in maintaining up-to-date copy of Record Drawings.

**Exhibit 2**  
**City of Riviera Beach**  
**REG ARCHITECTS, Inc. Rates 2017**

Labor Category	Billing Rate
Expert Witness	\$275.00
Principal	\$200.00
Registered Architect	\$160.00
Project Manager	\$140.00
Interior Designer	\$125.00
Construction Administration	\$100.00
CADD Production	\$90.00
Support Staff/Clerical	\$60.00

**RESOLUTION NO. 77-17**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, ACCEPTING THE RECOMMENDATION OF STAFF AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THREE YEAR CONTINUING SERVICE AGREEMENTS WITH THE TOP THREE RANKED FIRMS OF HARVARD JOLLY, INC., REG ARCHITECTS, INC., AND WEST ARCHITECTURE AND DESIGN, LLC. COMMENCING JULY 6, 2017 AND ENDING JULY 5, 2020 TO PROVIDE PROFESSIONAL ARCHITECTURAL SERVICES FOR VARIOUS CITY- WIDE PROJECTS; PROVIDING FOR TWO (2) ADDITIONAL TWELVE (12) MONTH RENEWAL OPTIONS BASED UPON THE MUTUAL CONSENT OF THE PARTIES; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City often requires the services of an architectural design firm to provide design, construction administration (CA), and consulting services for a multitude of projects within the City; and

**WHEREAS**, in accordance with the provisions of the City's Procurement Ordinance, staff solicited a Request for Qualifications (RFQ 825-17-1) for Architectural Services; and

**WHEREAS**, the selection committee, in accordance with the State of Florida's "Consultants' Competitive Negotiation Act" (FS 287.055), evaluated and ranked the firms that provided submittals with the top three (3) firms being: Harvard Jolly, Inc. of West Palm Beach, Florida; REG Architects, Inc. of West Palm Beach, Florida; and West Architecture and Design, LLC of Lantana, Florida; and

**WHEREAS**, the three (3) top ranked firms are capable of providing architectural services needed by the City.

**NOW, THEREFORE, BE IT RESOLVED BY CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:**

**SECTION1:** The City Council approves the agreement between the City of Riviera Beach and Harvard Jolly, Inc. of West Palm Beach, Florida.

**SECTION2:** The City Council approves the agreement between the City of Riviera Beach and REG Architects, Inc. of West Palm Beach, Florida.

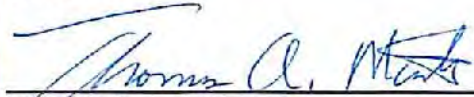
**SECTION3:** The City Council approved the agreement between the City of Riviera Beach and West Architecture and Design, LLC. of Lantana, Florida.

**PASSED AND APPROVED THIS : 5TH DAY OF JULY , 2017**

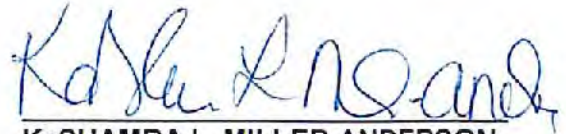
RESOLUTION NO. 77-17

Page 2

APPROVED:



THOMAS A. MASTERS  
MAYOR



KaSHAMBA L. MILLER-ANDERSON  
CHAIRPERSON

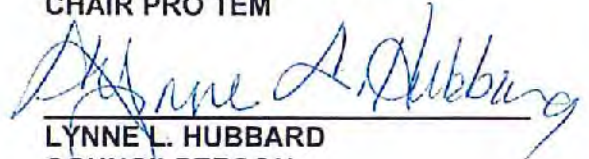
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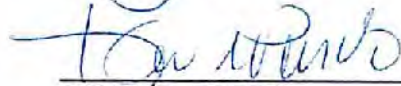
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CERTIFIED MUNICIPAL CLERK  
CITY CLERK



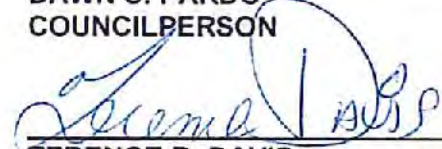
TONYA DAVIS JOHNSON  
CHAIR PRO TEM



LYNNE L. HUBBARD  
COUNCILPERSON



DAWN S. PARDO  
COUNCILPERSON



TERENCE D. DAVIS  
COUNCILPERSON

MOTIONED BY: D. PARDO

SECONDED BY: T. DAVIS JOHNSON

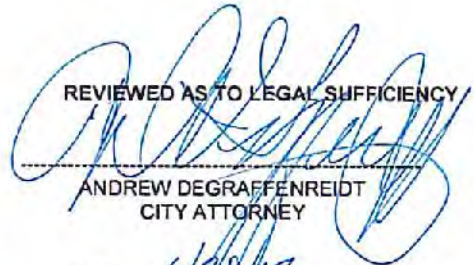
K. MILLER-ANDERSON AYE

T. DAVIS JOHNSON AYE

L. HUBBARD NAY

D. PARDO AYE

T. DAVIS AYE



REVIEWED AS TO LEGAL SUFFICIENCY

ANDREW DEGRAFFENREIDT  
CITY ATTORNEY

DATE: 6/30/17