

**CONTRACT BETWEEN
THE CITY OF RIVIERA BEACH AND
BROWN & PHILLIPS, INC. FOR
CONTINUING PROFESSIONAL
SURVEY SERVICES**

THIS CONTINUING CONTRACT is entered into this _____ day of _____, 2020 between the City of Riviera Beach, Florida (hereinafter referred to as ("CITY")) and **Brown & Phillips, Inc.**, a Florida Corporation whose office is in West Palm Beach, Florida and whose Federal Identification number is 65-0396648 (hereinafter referred to as ("SURVEYOR")).

WHEREAS, it has been determined that it is advisable, and desirable to employ a qualified surveying firm having special and broad experience in the desired fields for the purpose of providing continuing professional surveying consulting services for Topographic Surveying, Plat/Easement Creation, and Plat Review on behalf of the City. Creation and review of Survey instruments shall be in accordance with Florida Statute 472 and Florida Administrative Code 177; and

WHEREAS, the CITY solicited proposals from firms who are consultants in the area of survey services; and

WHEREAS, the CITY, in accordance with the Consultant's Competitive Negotiation Act, has selected the SURVEYOR as one of the most qualified firms to provide service to the CITY; and

WITNESSETH:

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

ARTICLE 1 - BASIC SERVICES OF SURVEYOR

The SURVEYOR will be providing professional survey services to assist in the implementation of the City's Capital Plan which defines the short and long-range planning needs, operational and maintenance issues. Some of the services are more specifically set forth in Riviera Beach RFQ 993-20-2 "Survey Consulting Services".

ARTICLE 2 - CITY RESPONSIBILITIES

CITY SHALL:

- A. Provide complete and detailed information as to its requirements for each Project.
- B. Assist SURVEYOR by placing at the SURVEYOR's disposal all available information pertinent to each Project including previous reports and any other data relative to design and construction of the Project.

- C. Furnish to SURVEYOR, as required by for the performance of the Contract, data prepared by or services of others, such as core borings, geophysical logs, probing and subsurface explorations, hydrographic surveys, laboratory tests and inspections or samples; appropriate professional interpretations of all of the foregoing; photo metric surveys, 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 SURVEYOR, may rely upon to perform his services .
- D. Make all provisions for SURVEYOR to enter upon public and private property as required for SURVEYOR to perform its services.
- E. Examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by SURVEYOR, obtain advice of an attorney, insurance counselor and other SURVEYORS as deemed appropriate for such examination and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services or SURVEYOR.
- F. Pay all costs incidental to obtaining bids or proposals from Contractors. This includes advertising and mailing, but does not include reimbursement for SURVEYORS time to discuss the Contract Documents with bidders or equipment suppliers.
- G. The Director of Public Works of Riviera Beach or designee shall act as the 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 SURVEYORS services.
- H. Furnish or direct SURVEYOR, to provide necessary Additional Services as stipulated in Exhibit A of this Contract or other services as required.
- I. Bear all costs incidental to compliance with the requirements or this Section.

ARTICLE 3 - PERIOD OF SERVICE

It is mutually agreed by CITY and SURVEYOR that this Contract is of a continuing nature, subject to termination by either party as herein after 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 4 - PAYMENTS TO SURVEYOR

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

- A. Generally - In consideration of the performance or services by SURVEYOR, the covenants, representations and warranties of SURVEYOR contained in this Contract and for the performance of all its other duties and obligations as set forth in this Contract, the CITY agrees to compensate the SURVEYOR at the hourly rates set forth in “**City of Riviera Beach Brown & Phillips Rates 2020**” detailed in Exhibit “B”, attached hereto and made part hereof. The CITY shall not reimburse the SURVEYOR any costs incurred as a direct result of the SURVEYOR providing service to the CITY in pursuance of the scope of work contained in Exhibit "A", without specific, prior approval of the CITY.
- B. Invoices by the SURVEYOR, pursuant to this Contract, will be reviewed and approved by the CITY's representative, indicating that services have been rendered in conformity with the Contract and then each payment period. Invoices will normally be paid within thirty (30) days following the CITY representative's approval.
- C. Final Invoice - In order for both parties herein to close their books and records, SURVEYOR will clearly state "final invoice" on the SURVEYOR's final/last bill in g to the CITY for each work order authorized under this Contract. This certifies that all Services have been properly performed and all charges have been invoiced to the CITY for the authorized work order. Since this account will thereupon be closed, any and other further charges if not properly included in this final invoice are waived by the SURVEYOR and the CITY shall have no obligations for any other costs or expenses thereafter.
- D. If the CITY fails to make any payment due the SURVEYOR for services and expenses under this Contract within forty-five (45) days after the SURVEYOR's transmittal of its invoice to the CITY, the SURVEYOR may, after giving notice to the CITY, suspend services under this Contract in question until it has been paid in full all amounts due.
- E. If the CITY disputes any invoice or part of an invoice, CITY shall notify SURVEYOR of such dispute within fifteen (15) days of receipt of the invoice. CITY reserves the right to off-set, reduce or withhold any payment to SURVEYOR in accordance with the terms and conditions of this Contract.

ARTICLE 5 - TRUTH-IN NEGOTIATION CERTIFICATE

Signature of this Contract by the SURVEYOR 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 elate of the Contract and not higher than those charged to the SURVEYOR'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's 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 SURVEYORs. The CITY shall exercise its right under this Article within three (3) years following final payment.

ARTICLE 6 - TERMINATION

This Contract may be cancelled by the SURVEYOR upon thirty (30) days prior written notices to the CITY's representative in the event of substantial failure by the CITY to perform in accordance with the term of this period. It may also be terminated, in whole or in part, by the CITY, with or without cause, immediately upon written notice to the SURVEYOR. Unless the SURVEYOR is in breach of this Contract, the SURVEYOR shall be paid for services rendered to the CITY's satisfaction through the date of receipt of termination. After receipt of a Termination Notice and except as otherwise directed by the CITY, the SURVEYOR 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 SURVEYOR and 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 this Contract.

ARTICLE 7 - PERSONNEL

The SURVEYOR 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. The CITY shall comply with all necessary federal, state and local laws, ordinances and regulations pertaining to the employment of its personnel.

SURVEYOR shall perform background checks and pre-employment screenings, as well as random drug testing of personnel at its own expense. SURVEYOR shall be responsible for any and all taxes and other charges against any of the services provided under this Contract. All of the services required hereunder shall be performed by the SURVEYOR or under its supervision, and all personnel engaged in performing the service shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services.

Any changes or substitutions in the SURVEYOR's key personnel, as may be listed in Exhibit "B", must be made known to the CITY's representative before said changes or substitution can become effective; such approval shall not be unreasonably withheld.

The SURVEYOR warrants that all services shall be performed by skilled and competent personnel to the profession all industry standard of care in the field for which SURVEYOR is providing services to the CITY. The SURVEYOR agrees that it is fully responsible to the CITY for the acts and commissions of sub-consultants and of persons either directly or indirectly employed by the SURVEYOR. Nothing contained herein shall create any Contractual relationship between any subcontractor and the CITY.

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

ARTICLE 8 - 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 after providing written notice to the SURVEYOR, and approve all qualifications 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 SURVEYOR is encouraged to seek minority and women business enterprises for participation in subcontracting opportunities. Rejection of a proposed sub-consultant may result in a change in pricing unless such rejection is due solely to poor performance. In any event, said rejection shall in no way obligate CITY to accept such change in pricing but CITY may, in its sole discretion, agree to same.

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 SURVEYOR shall promptly do so, subject to acceptance of the new sub-consultant by the CITY.

If sub-consultant(s) are used, the SURVEYOR shall use only licensed and insured sub-consultant(s). 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 SURVEYOR shall be responsible for the performance of all sub-consultants.

ARTICLE-9-DELIBERATELY LEFT BLANK

ARTICLE- 10 - 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 SURVEYOR. The SURVEYOR shall not be exempted from paying sales tax to its suppliers for materials used to fulfill Contractual obligation with the CITY, nor is the SURVEYOR authorized to use the CITY's Tax Exemption Number in securing such materials.

The SURVEYOR 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 -11- INSURANCE

- A. Prior to execution of this Contract by the CITY, the SURVEYOR 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 SURVEYOR 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 SURVEYOR of its liability and obligations under this Contract.
- B. The SURVEYOR shall maintain during the life of this Contract, standard Professional Liability Insurance in the minimum amount of \$1,000,000.00 Contractual liability per claim /annual aggregate.

- C. The SURVEYOR 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 SURVEYOR from claim s for damages for bodily and personal injury, including wrongful death, as well as from claims of property damage s which may arise from any operations under this Contract, whether such operations be by the SURVEYOR or by anyone directly or indirectly employed by or contracting with the SURVEYOR.
- D. The SURVEYOR 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 SURVEYOR 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 non-owned automobiles , including, but not limited to, leased and rented automobiles whether such operations be by the SURVEYOR or by anyone, directly or indirectly, employed by the SURVEYOR.
- 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 SURVEYOR shall specifically include the CITY as an "Additional Insured."

ARTICLE 12 - INDEMNIFICATON

The SURVEYOR shall indemnify and save harmless the CITY, its employees from and against liabilities, losses which arise from any negligent act or omission, of the SURVEYOR, its agents, servants, officers, or employees in the performance of services under this Contract.

The SURVEYOR shall pay claims, losses, liens, fine s, settlements or judgments in connection with the foregoing indemnification including, but not limited to, costs, expert witness fees, reasonable attorney's fees, and court and/or arbitration costs where recoverable by law. These indemnifications shall survive the term of this Contract or any renewal thereof.

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

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 waiver provided in Section 768.28, Florida Statutes.

ARTICLE 13 - SUCCESSORS AND ASSIGNS

The CITY and the SURVEYOR 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 SURVEYOR 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 SURVEYOR.

ARTICLE 14 - DISPUTE RESOLUTION AND VENUE

All claims arising out of the 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 and any dispute, disagreement, or issue of construction or interpretation arising hereunder whether relating to its execution, its validity, the obligations provided therein, performance or breach shall be governed and interpreted according to laws of the State of Florida. Venue for any and all legal action necessary to enforce the Contract will be held in Palm Beach County, and if necessary be litigated by non-jury trial.

ARTICLE 15 - 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 hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, remedy hereunder shall preclude any other or further exercise thereof.

ARTICLE 16 - CONFLICT OF INTEREST

The SURVEYOR 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 SURVEYOR further represents that no person having any such conflicting interest shall be employed for said performance.

The SURVEYOR 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 SURVEYOR'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 SURVEYOR 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 SURVEYOR. The CITY agrees to notify the SURVEYOR of its opinion by certified mail within thirty (30) days of receipt of notification by the SURVEYOR. If, in the opinion of the CITY, the prospective business association, interest or circumstance would not constitute a conflict of interest by the SURVEYOR, the CITY shall so state in the notification and the SURVEYOR 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 SURVEYOR under the terms of this Contract.

ARTICLE 17 - DELAYS AND EXTENSION OF TIME

The SURVEYOR 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 SURVEYOR 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 SURVEYOR's request, the CITY shall consider the facts and extent of any failure to perform the work and, if the SURVEYOR's failure to perform was without its or its sub-consultants 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 anytime.

If the SURVEYOR 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 SURVEYOR employed by the CITY, or by changes ordered by the CITY or in an unusual delay in transportation, unavoidable casual ties, or any causes beyond the SURVEYOR'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 18 - IN DEBTEDNESS

The SURVEYOR 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 forms of indebtedness. The SURVEYOR further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Contract.

ARTICLE 19-DISCLOSURE AND OWNERSHIP OF DOCUMENTS

The SURVEYOR 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 SURVEYOR 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 bases, 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 SURVEYOR 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 20 - PUBLIC RECORDS

The SURVEYOR shall comply with Florida Public Records Act, and specifically section 119.0701, Florida Statutes, by agreeing to:

- (a) Keep and maintain all public records that ordinarily and necessarily would be required by the CITY to keep and maintain in order to perform the services under this Contract.
- (b) Provide the public with access to said public records on the same terms and conditions that the CITY would provide the records and at 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.
- (d) Meet all requirements for retaining said public records and transfer, at no cost, to the CITY all said public records in possession of the SURVEYOR upon termination of this Contract and destroy any duplicate public records that are exempt or confidential and exempt from public record and disclosure requirements. All records stored electronically must be provided to the CITY in a format that is compatible with the information technology systems of the CITY.
- (e) IF THE CONTRACTOR 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 AT (561-845-4090, crobinson@rivierabeach.org, and 600 W. Blue Heron Blvd, #140, Riviera Beach, Fl. 33404).

ARTICLE 21- INDEPENDENT CONTRACTOR RELATIONSHIP

The SURVEYOR 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 SURVEYOR's sole direction, supervision and control. The SURVEYOR shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the SURVEYOR'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 SURVEYOR 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 22 - CONTINGENT FEES

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

ARTICLE 23 - ACCESS AND AUDITS

The SURVEYOR 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 SURVEYOR's place of business.

ARTICLE 24 - NONDISCRIMINATION

The SURVEYOR 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, SURVEYOR 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 25 - 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 26 - AUTHORITY TO PRACTICE

The SURVEYOR 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 SURVEYOR 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 27 - 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 28 - PUBLIC ENTITY CRIMES

As provided in F.S. 287.132-133 by entering into this Contract or performing any work in furtherance hereof, the SURVEYOR 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 29 - 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 SURVEYOR of the CITY's notification of a contemplated change, the SURVEYOR 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 to the completion date, and (3) advise the CITY if the contemplated change shall affect the SURVEYOR's ability to meet the completion dates or schedules of this Contract.

If the CITY so instructs in writing, the SURVEYOR 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 SURVEYOR shall not commence work on any such change until such written amendment is signed by the SURVEYOR and approved and executed by the CITY OF RIVIERA BEACH or its designated representative.

ARTICLE 30 - 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 PUBLIC WORKS DEPARTMENT
c/o TERRENCE N. BAILEY, PE, DIRECTOR OF
PUBLIC WORKS 1481 15TH STREET
RIVIERA BEACH, FL 33404**

and if sent to the SURVEYOR shall be mailed to:

**BROWN & PHILLIPS, INC.
c/o ANTHONY BROWN
1860 OLD OKEECHOBEE ROAD, SUITE 509
WEST PALM BEACH, FLORIDA 33469**

ARTICLE 31- ENTIRETY OF CONTRACT

The CITY and the SURVEYOR 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 the Contract may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto in accordance with Article 20-Modifications of Work.

ARTICLE 32 - 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 33 - PREPARATION

This Contract shall not be construed more strongly against either party regardless of who was more responsible for its preparation.

ARTICLE 34 - MATERIALITY

All provisions of the Contract shall be deemed material, in the event SURVEYOR 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 35- REPRESENTATION/BINDING AUTHORITY

SURVEYOR 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, **Anthony Brown**, hereby represents to the CITY that he/she has the authority and full legal power to execute this Contract and any and all documents necessary to effectuate and implement the terms of the Contract on behalf of the party for whom he or she is signing and to bind and obligate such party with respect to all provisions contained in this Contract.

ARTICLE 36 - EXHIBITS

Each exhibit referred to in this Contract forms as 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. "Exhibit A" is hereby attached and describes some of the Scope of Work.

ARTICLE 37 - CONTRACT DOCUMENTS AND CONTROLLING PROVISIONS

This Contract consists of the Contract, Exhibit "A," Exhibit "B" and RFP No. 993-20-2. The SURVEYOR agrees to be bound by all the terms and conditions as set forth in this Contract and RFP No. 993-20-2. To the extent there exists a conflict between this Contract and RFP No. 993-20-2, the terms, conditions, covenants, and/or provisions of this Contract shall prevail. Wherever possible, the provisions of such documents shall be constructed in such a manner as to avoid conflicts between provisions of the various documents.

ARTICLE 38 - LEGAL EFFECT

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

ARTICLE 39 - 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 40 - 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 41 - 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 sub-consultant 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 SURVEYOR;
- B. The filing of any judgment lien against the assets of the SURVEYOR 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 SURVEYOR; or The filing of a petition by or against the SURVEYOR for relief under the Bankruptcy Code, or for its reorganization or for the appointment of a receiver or trustee of the SURVEYOR or the SURVEYOR's property; or an assignment by the SURVEYOR for the benefit of creditors; or the taking possession of the property of the SURVEYOR by any governmental officer or agency pursuant to statutory authority for the dissolution or liquidation of the SURVEYOR; or if a temporary or permanent receiver or trustee shall be appointed for the SURVEYOR or for the SURVEYOR's property and such temporary or permanent receiver or Trustee shall not be discharged within thirty (30) days from the date of appointment.

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

ARTICLE 42-WAIVER OF SUBROGATION

The SURVEYOR 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 SURVEYOR 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 SURVEYOR enter into such a Contract on a pre-loss basis.

ARTICLE 43 - RIGHT TO REVIEW

The CITY, by and through its Risk Management Department, in cooperation with the contract/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.

THE REMAINDER OF THIS PAGE IS LEFT BLANK

CONTINUING CONTRACT WITH THE CITY OF RIVIERA BEACH

IN WITNESS WHEREOF, the parties unto this Contract have set their hand and seal on the day and year above written.

CITY OF RIVIERA BEACH

BROWN & PHILLIPS INC.

BY: _____
RONNIE L. FELDER,
MAYOR

BY: _____
ANTHONY BROWN,
PRINCIPAL

ATTEST:

BY: _____
CLAUDENE L. ANTHONY
CERTIFIED MUNICIPAL CLERK
CITY CLERK

APPROVED AS TO TERMS AND
CONDITIONS

BY: _____
TERRENCE N. BAILEY, PE
DEPARTMENT DIRECTOR

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

BY: _____
DAWN S. WYNN
CITY ATTORNEY

Date: _____

EXHIBIT A

SCOPE OF SERVICES

It is the intent of this Contract to include specific items of the City of Riviera Beach Capital Plan and specific projects outlined in RFP 993-20-2, The City of Riviera Beach, Florida invites qualified Survey Consultants licensed by the State of Florida, pursuant to Florida State Statute 287.055, "**Consultants Competitive Negotiation Act**" to perform Professional Survey and Mapping Services for the City of Riviera Beach. Proposers must demonstrate experience in Topographic Surveying, Plat/Easement Creation, and Plat Review on behalf of the City. Creation and review of Survey instruments shall be in accordance with Florida Statute 472 and Florida Administrative Code 177.

The City is interested in entering into a continuing contract for professional services with Surveying and Mapping Consulting firms to provide professional surveying and mapping services for various City Projects. The City reserves the right to select up to the four highest ranked consultants to be retained with work being allocated on a rotation basis to conduct topographic survey data collection, collect and prepare geo-spatial data for GIS support, prepare plats, sketch, descriptions, and provide associated mapping services, AutoCAD drafting, calculations and other related survey and mapping projects.

As the City currently does not have a staff surveyor, the consultant may at times be requested to review plats and easements on behalf of the City. In addition, the City shall request survey services for named projects in exhibit 'A', 'B', and 'C' of RFP 993-20-2, but not limit work to those items.

Exhibit B**FEE SCHEDULE
EFFECTIVE DATE
SEPTEMBER 1, 2020****Hourly Rate**

CADD Technician	\$90.00
<i>SURVEYING SERVICES</i>	
Principal Surveyor	\$200.00
Senior Professional Surveyor	N/A
Professional Surveyor	\$140.00
Survey Intern	\$90.00
2 Man Field Crew	\$ 125.00
3 Man field Crew	\$ 150.00
4 Man Field Crew	N/A
5 Man Field Crew	N/A
Utility Coordinator	N/A
Designating Crew	N/A
Vacuum Excavation Crew	N/A
Laser Scan Crew	N/A
Hydrographic/Bathymetric Crew	N/A

Hourly Rate

<i>OTHER PROFESSIONAL SERVICES</i>	
Expert Witness	\$ 400.00
GIS Technician	N/A
Administrative Assistant	\$ 50.00
All Third Party Expenses	Cost Plus 10%