

CITY OF NORTH MIAMI
PROFESSIONAL SERVICES AGREEMENT
(RFQ #08-17-18; Continuing Architectural & Engineering Services)

THIS PROFESSIONAL SERVICES AGREEMENT (“Agreement”) is entered into on _____, between the **City of North Miami**, a Florida municipal corporation with a principal address of 776 NE 125th Street, North Miami, Florida (“City”), and **300 Engineering Group, P.A.**, a Florida for-profit corporation registered and authorized to do business under the laws of the State of Florida, having its principal office at 2222 Ponce De Leon Blvd., Suite 300, Coral Gables, FL 33134 (“Consultant”). The City and Consultant shall collectively be referred to as the “Parties”, and each may individually be referred to as a “Party”.

RECITALS

WHEREAS, on December 7, 2017, the City of North Miami (“City”) advertised ***Request for Qualifications #08-17-18, Continuing Architectural & Engineering Services*** (“RFQ”), for the purpose of retaining experienced, licensed and insured architectural and engineering firms to provide on a continuing, as-needed when needed basis, the following specific professional services: Architecture/Interior Design, Rodway, Traffic & Transportation Engineering and Consulting, Water/Waste Water Engineering, Water Resources/Stormwater Design, Urban Planning & Design, and Environmental Engineering; and

WHEREAS, the RFQ was administered in accordance with the State of Florida’s Consultants’ Competitive Negotiation Act, Section 287.055, Florida Statutes (2021); and

WHEREAS, in response to the RFQ, Consultant submitted its sealed Qualifications for the provision of Services, and was subsequently selected by City administration as having those qualifications and references most advantageous to the City; and

WHEREAS, the City is in need of engineering and design services to complete the installation of an eight (8) inch sanitary sewer gravity main for the City’s Breezeswept Park and tot-lot project (“Services”); and

WHEREAS, on March 8, 2022, the Mayor and City Council passed and adopted Resolution No. R-2022-R-23, authorizing the City Manager to execute this Agreement for the provision of Services, as beneficial to the health, safety and welfare of all City residents.

NOW, THEREFORE, in consideration of the mutual terms and conditions set forth herein and other good and valuable consideration, the Parties hereto agree as follows:

ARTICLE 1 - RECITALS

1.1 The recitals are true and correct and are hereby incorporated into and made a part of this Agreement.

ARTICLE 2 - CONTRACT DOCUMENTS

2.1 The following documents are incorporated into and made a part of this Agreement (collectively referred to as the "Contract Documents"):

2.1.1 The City's ***Request for Qualifications No. 08-17-18, Continuing Architectural and Engineering Services***, attached hereto by reference;

2.1.2 Consultant's response to the RFQ ("Qualifications"), attached hereto by reference;

2.1.3 Resolution No. R-2022-R-23, passed and adopted by the Mayor and City Council on March 8, 2022, approving the selection of Consultant for the provision of Engineering and Design Services and authorizing the execution of this Agreement, attached hereto as Exhibit "A";

2.1.5 Consultant's Proposal with detailed scope of services, attached hereto as Exhibit "B";

2.1.6 Any additional documents which are required to be submitted by Consultant under this Agreement.

2.2 In the event of any conflict between the Contract Documents or any ambiguity or missing specification or instruction, the following priority is hereby established:

- 2.2.1 Specific written direction from the City Manager or City Manager's designee.
- 2.2.2 This Agreement.
- 2.2.3 The RFQ.
- 2.2.4 The Proposal.

2.3 The Parties agree that Consultant is responsible for clarifying any ambiguity, conflict, discrepancy, omission, or other error found in the RFQ prior to Consultant submitting its Qualifications or the right to clarify same shall be waived.

ARTICLE 3 – TIME FOR PERFORMANCE

3.1 Subject to authorized adjustments, the Time for Performance shall be the period of time not to exceed four (4) months following the City's issuance of its Notice to Proceed to Consultant, which shall constitute the guaranteed time upon which Consultant is to complete the Project in accordance with the terms, conditions and specifications contained in this Agreement, unless terminated earlier by the City. Consultant agrees that the performance of Services shall be pursued on schedule, diligently and uninterrupted at a rate of progress which will ensure full completion within the agreed time for performance. Failure to achieve timely final completion shall be regarded as a material breach of this Agreement and shall be subject to the appropriate remedies available at law. This Agreement shall remain in full force and effect until the completion of Services by the Consultant and the acceptance of Services by the City.

3.2 Minor adjustments to the Time for Performance which are approved in writing by the City in advance, shall not constitute non-performance by Consultant. Any impact on the time for performance shall be determined and the time schedule for completion of Services will be modified accordingly.

3.3 When, in the opinion of the City, reasonable grounds for uncertainty exist with respect to the Consultant's ability to perform Services or any portion thereof, the City may request that the Consultant, within a reasonable time frame set forth in the City's request, provide adequate assurances to the City in writing, of Consultant's ability to perform in accordance with terms of this Agreement. In the event that the Consultant fails to provide the City the requested assurances within the prescribed time frame, the City may treat such failure as a repudiation or breach of this Agreement, and resort to any remedy for breach provided for in this Agreement or at law.

3.4 Notwithstanding the provisions of this Article 3, this Agreement may be terminated by the City at any time, with or without cause.

ARTICLE 4 - COMPENSATION

4.1 Consultant shall be paid the estimated amount of Forty-Eight Thousand Two Hundred Thirteen Dollars (\$48,213.00) as full compensation for Services, pursuant to Contract Documents.

4.2 Funding for this Agreement is contingent on the availability of funds and the Agreement is subject to amendment or termination due to lack of funds or a reduction of funds, upon ten (10) days written notice to Consultant.

ARTICLE 5 - SCOPE OF SERVICES

5.1 Consultant agrees to perform Services for the benefit of the City under the special terms, schedules, and conditions set forth in the Contract Documents and in the Consultant's proposal attached hereto as Exhibit "B". Consultant shall perform Services in accordance with that degree of care and skill ordinarily exercised by reputable members of its profession.

5.2 One or more changes to the Services within the general scope of this Agreement may be ordered by Change Order. A Change Order shall mean a written order to the Consultant executed by the Parties after execution of this Agreement. The Consultant shall proceed with any such changes, and they shall be accomplished in strict accordance with the Contract Documents and the terms and conditions described in this Agreement.

5.3 Consultant represents and warrants to the City that: (i) Consultant possesses all qualifications, licenses and expertise required in the provision of Services, with personnel fully licensed by the State of Florida; (ii) Consultant is not delinquent in the payment of any sums due the City, including payment of permit fees, local business taxes, or in the performance of any obligations to the City; (iii) all personnel assigned to perform work shall be, at all times during the term hereof, fully qualified and trained to perform the tasks assigned to each; (iv) the Services will be performed in the manner as described in the Contract Documents for the budgeted amounts, rates and schedules; and (v) the person executing this Agreement on behalf of Consultant is duly authorized to execute same and fully bind Consultant as a Party to this Agreement.

5.4 Consultant agrees and understands that: (i) any and all subconsultants used by Consultant shall be paid by Consultant and not paid directly by the City; and (ii) any and all liabilities regarding payment to or use of subconsultants for any of the work related to this Agreement shall be borne solely by Consultant. Any work performed for Consultant by a subconsultant will be

pursuant to an appropriate agreement between Consultant and subconsultant which specifically binds the subconsultant to all applicable terms and conditions of the Contract Documents.

5.5 Consultant warrants that any and all work, materials, services or equipment that may reasonably be inferred from the Contract Documents as being required to produce the intended result, will be supplied by the Consultant at its own cost, whether or not specifically called for.

5.6 Consultant warrants and accepts that any and all work, materials, services or equipment necessitated by the inspections of City and/or Miami-Dade County agencies, or other regulatory agencies as are applicable, to bring the project into conformity with the Contract Documents and all applicable laws, codes, regulations, procedures, or considered inside the contemplation of the Contract Documents, shall be deemed the responsibility of the Consultant at no additional cost to the City.

ARTICLE 6 - CITY'S TERMINATION RIGHTS

6.1 The City shall have the right to terminate this Agreement, in its sole discretion at any time, with or without cause, upon ten (10) days written notice to Consultant. In such event, the City shall pay Consultant compensation for Services rendered prior to the effective date of termination. The City shall not be liable to Consultant for any additional compensation, or for any consequential or incidental damages.

ARTICLE 7 - INDEPENDENT CONTRACTOR

7.1 Consultant, its employees and agents shall be deemed to be independent contractors and not agents or employees of the City and shall not attain any rights or benefits under the civil service or pension ordinances of the City, or any rights generally afforded to classified or unclassified employees. The Consultant shall not be deemed entitled to the Florida Workers' Compensation benefits as an employee of the City.

ARTICLE 8 - DEFAULT

8.1 In the event the Consultant fails to comply with any provision of this Agreement, the City may declare the Consultant in default by written notification. The City shall have the right to terminate this Agreement if the Consultant fails to cure the default within ten (10) days after receiving notice of default from the City. If the Consultant fails to cure the default, the Consultant will only be compensated for completed Services. In the event partial payment has been made for such Services not completed, the Consultant shall return such sums due to the City within ten (10) days after notice that such sums are due. The Consultant understands and agrees that termination of this Agreement under this section shall not release Consultant from any obligations accruing prior to the effective date of termination.

ARTICLE 9 - ENGINEER'S ERRORS AND OMISSIONS

9.1 Consultant shall be responsible for technically deficient designs, reports, or studies due to Consultant's errors and omissions, and shall promptly correct or replace all such deficient design work without cost to City. The Consultant shall also be responsible for all damages resulting from such errors and omissions. Payment in full by the City for Services performed does not constitute a waiver of this representation.

ARTICLE 10 - INDEMNIFICATION

10.1 Consultant agrees to indemnify, defend, save and hold harmless the City its officers, agents and employees, from and against any and all claims, liabilities, suits, losses, claims, fines, and/or causes of action that may be brought against the City, its officers, agents and employees, on account of any negligent act or omission of Consultant, its agents, servants, or employees in the performance of Services under this Agreement and resulting in personal injury, loss of life or damage to property sustained by any person or entity, to the extent caused by Consultant's negligence within the scope of this Agreement, including all costs, reasonable attorney's fees, expenses, including any appeal, and including the investigations and defense of any action or proceeding and any order, judgment, or decree which may be entered in any such action or proceeding, except for damages specifically caused by or arising out of the negligence, strict liability, intentional torts or criminal acts of the City, its officer, agents, employees or contractors, which claims are lodged by any person, firm, or corporation.

10.2 Nothing contained in this Agreement is any way intended to be a waiver of the limitation placed upon the City's liability as set forth in Chapter 768, Florida Statutes. Additionally, the City does not waive sovereign immunity, and no claim or award against the City shall include attorney's fees, investigative costs or pre-judgment interest.

ARTICLE 11 - INSURANCE

11.1 Prior to the execution of this Agreement, the Consultant shall submit certificate(s) of insurance evidencing the required coverage and specifically providing that the City is an additional named insured or additional insured with respect to the required coverage and the operations of the Consultant under this Agreement. Consultant shall not commence work under this Agreement until after Consultant has obtained all of the minimum insurance described in the RFQ and the policies of such insurance detailing the provisions of coverage have been received and approved by the City. Consultant shall not permit any subconsultant to begin work until after similar minimum insurance to cover subconsultant has been obtained and approved. In the event the insurance certificate provided indicates that the insurance shall terminate and lapse during the term of this Agreement, Consultant shall furnish, at least thirty (30) calendar days prior to expiration of the date of the insurance, a renewed certificate of insurance as proof that equal and like coverage and extension is in effect. Consultant shall not continue to perform the Services required by this Agreement unless all required insurance remains in full force and effect.

11.2 All insurance policies required from Consultant shall be written by a company with a Best rating of B+ or better and duly authorized and licensed to do business in the State of Florida and be executed by duly licensed agents upon whom service of process may be made in Miami-Dade County, Florida.

ARTICLE 12 - OWNERSHIP OF DOCUMENTS

12.1 All documents developed by Consultant under this Agreement shall be delivered to the City by the Consultant upon completion of the Services and shall become property of the City, without restriction or limitation of its use. The Consultant agrees that all documents generated hereto shall be subject to the applicable provisions of the Public Records Law, under Chapter 119, Florida Statutes.

12.2 The Consultant shall additionally comply with Section 119.0701, Florida Statutes, including without limitation, the following conditions: (1) keep and maintain public records that ordinarily and necessarily would be required by the City to perform this service; (2) provide the public with access to public records on the same terms and conditions as the City would at the cost provided by Chapter 119, Florida Statutes, or as otherwise provided by law; (3) ensure that public records that are exempt or confidential and exempt from disclosure are not disclosed, except as authorized by law; (4) meet all requirements for retaining public records and transfer, at no cost to the City, all public records in its possession upon termination of this Agreement and destroy any duplicate public records that are exempt or confidential and exempt from disclosure requirements; and (5) all electronically stored public records must be provided to the City in a format compatible with the City's information technology systems.

12.3 It is further understood by and between the Parties that any information, writings, tapes, Contract Documents, reports or any other matter whatsoever which is given by the City to the Consultant pursuant to this Agreement shall at all times remain the property of the City and shall not be used by the Consultant for any other purposes whatsoever without the written consent of the City.

12.4 In the event the Agreement is terminated, Consultant agrees to provide the City all such documents within ten (10) days from the date the Agreement is terminated.

ARTICLE 13 - NOTICES

13.1 All notices, demands, correspondence and other communications between the Parties shall be deemed sufficiently given under the terms of this Agreement when dispatched by registered or certified mail, postage prepaid, return receipt requested, addressed as follows or as the same may be changed from time to time:

For Consultant: 300 Engineering Group, P.A.
 Franklin Torrealba, Registered Agent
 2222 Ponce De Leon Blvd.
 Suite 300
 Coral Gables, FL 33134

For the City: City of North Miami
 Attn: City Manager
 776 N.E.125th Street
 North Miami, Florida 33161

With copy to: City of North Miami
 Attn: City Attorney
 776 N.E.125th Street
 North Miami, Florida 33161

13.2 Either Party may at any time designate a different address and/or contact person by giving notice as provided above to the other Party. Such notices shall be deemed given upon receipt by the addressee.

13.3 In the event there is a change of address and the moving Party fails to provide notice to the other Party, then notice sent as provided in this Article shall constitute adequate notice

ARTICLE 14 - CONFLICT OF INTEREST

14.1 Consultant represents and warrants to the City that it has not employed or retained any person or company employed by the City to solicit or secure this Agreement and that it has not offered to pay, paid, or agreed to pay any person any fee, commission, percentage, brokerage fee, or gift of any kind contingent upon or in connection with, the award of this Agreement.

14.2 Consultant covenants that no person under its employ who presently exercises any functions or responsibilities on behalf of the City in connection with this Agreement has any personal financial interest, directly or indirectly, with contractors or vendors providing professional services on projects assigned to the Consultant, except as fully disclosed and approved by the City. Consultant further covenants that, in the performance of this Agreement, no person having such conflicting interest shall be employed.

ARTICLE 15 - MISCELLANEOUS PROVISIONS

15.1 No waiver or breach of any provision of this Agreement shall constitute a waiver of any subsequent breach of the same or any other provision hereof, and no waiver shall be effective unless made in writing.

15.2 All representations, indemnifications, warranties and guarantees made in, required by, or given in accordance with this Agreement, as well as all continuing obligations indicated in the Contract Documents, shall survive final payment, completion and acceptance of the Services and termination or completion of the Agreement.

15.3 Should any provision, paragraph, sentence, word or phrase contained in this Agreement be determined by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable under the laws of the State of Florida, such provision, paragraph, sentence, word or phrase shall be deemed modified to the extent necessary in order to conform with such laws, or if not modifiable, then same shall be deemed severable, and in either event, the remaining terms and provisions of this Agreement shall remain unmodified and in full force and effect or limitation of its use.

15.4 This Agreement and Contract Documents constitute the sole and entire agreement between the Parties. No modification or amendments to this Agreement shall be binding on either Party unless in writing and signed by both Parties.

15.5 This Agreement shall be construed and enforced according to the laws of the State of Florida. Venue in any proceedings between the Parties shall be in Miami-Dade County, Florida.

15.6 The City reserves the right to audit the records of the Consultant covered by this Agreement at any time during the provision of Services and for a period of three years after final payment is made under this Agreement.

15.7 The Consultant agrees to comply with and observe all applicable federal, state, and local laws, rules, regulations, codes and ordinances, as they may be amended from time to time.

15.8 Services shall not be subcontracted, transferred, conveyed, or assigned under this Agreement in whole or in part to any other person, firm or corporation without the prior written consent of the City.

15.9 The City of North Miami is exempt from Federal Excise and State taxes. The applicable tax exemption number or certificate shall be made available upon request.

15.10 The professional Services to be provided by Consultant pursuant to this Agreement shall be non-exclusive, and nothing herein shall preclude the City from engaging other firms to perform Services.

15.11 This Agreement shall be binding upon the Parties herein, their heirs, executors, legal representatives, successors and assigns.

15.12 The Consultant agrees that it shall not discriminate as to race, sex, color, creed, national origin, or disability, in connection with its performance under this Agreement.

15.13 All other terms, conditions and requirements contained in the RFQ, which have not been modified by this Agreement, shall remain in full force and effect.

15.14 In the event of any dispute arising under or related to this Agreement, the prevailing Party shall be entitled to recover all actual attorney fees, costs and expenses incurred by it in connection with that dispute and/or the enforcement of this Agreement, including all such actual attorney fees, costs and expenses at all judicial levels, including appeal, until such dispute is resolved with finality.

15.15 This Agreement may be executed in two or more counterparts, each of which shall constitute an original but all of which, when taken together, shall constitute one and the same Agreement.

(The Remainder of the Page is intentionally left blank)

IN WITNESS WHEREOF, the Parties have executed this Agreement by their respective proper officers duly authorized the day and year first written above.

ATTEST: 300 Engineering Group, P.A., a Florida for-profit corporation:
Corporate Secretary or Witness: "Consultant"

Witnessed By: _____ Signed By: _____
Witness Name: _____ Print Name: _____
Witness Date: _____ Signature Date: _____

ATTEST: City of North Miami, a Florida municipal Corporation:
"City"

By: _____ Theresa Therilus, Esq.
Vanessa Joseph, Esq.
City Clerk City Manager

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

By: _____ Jeff P. H. Cazeau
City Attorney

Exhibit "A"

RESOLUTION NO. 2022-R-23

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AUTHORIZING THE CITY MANAGER TO FINALIZE AND EXECUTE AN AGREEMENT WITH 300 ENGINEERING GROUP, P.A., IN AN AMOUNT NOT TO EXCEED FORTY-EIGHT THOUSAND TWO HUNDRED THIRTEEN DOLLARS (\$48,213.00), FOR THE PROVISION OF PROFESSIONAL ENGINEERING AND DESIGN SERVICES RELATED TO THE INSTALLATION OF A SANITARY SEWER GRAVITY MAIN FOR THE BREEZESWEPT PARK AND TOT-LOT PROJECT, IN ACCORDANCE WITH THE TERMS, CONDITIONS, AND SPECIFICATIONS CONTAINED IN REQUEST FOR QUALIFICATIONS NO. 08-17-18; PROVIDING FOR AN EFFECTIVE DATE AND ALL OTHER PURPOSES.

WHEREAS, on December 7, 2017, the City advertised *Request for Qualifications No.08-17-18, Continuing Architectural & Engineering Services* (“RFQ”), for the purpose of retaining a pool of experienced, licensed and insured architectural and engineering firms to provide on a continuing as-needed, when needed basis, the following specific services: Architecture/Interior Design, Landscape Architecture, Urban Planning & Design, Environmental Engineering, Transportation/Traffic Engineering, Water Resources/Stormwater Design, Wastewater Engineering, Geotechnical/Material Testing and Mechanical/Electrical/Plumbing (“Services”); and

WHEREAS, the RFQ was undertaken in accordance with Florida’s Consultants’ Competitive Negotiation Act (“CCNA”), under Section 287.055, Florida Statutes; and

WHEREAS, in response to the RFQ, 300 Engineering Group, P.A. (“Consultant”) submitted its qualifications for the provision of services and was approved to be included on the City’s list of pre-qualified firms pursuant to Resolution No. 2019-R-15; and

WHEREAS, the Breezeswept Park & Tot-Lot, located at 12501 N.E. 2 Avenue, North Miami, FL is currently undergoing a renovations project which is currently in the planning phase; and

WHEREAS, part of the renovations will include new sewage flows being generated and discharged into the City’s sewer collection system; and

WHEREAS, pursuant to Consultant's proposal, the services to be provided shall include, but not be limited to, professional engineering, design, and project management services in accordance with the Consultant's proposal ("Services") in an amount not to exceed Forty-Eight Thousand Two Hundred Thirteen Dollars (\$48,213.00); and

WHEREAS, the Mayor and City Council have determined that it is in the City's best interests to authorize the City Manager to finalize and execute an agreement for the provision of Services related to the design and installation of a sanitary sewer gravity main as part of the Breezeswept Tot-Lot Park Project.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, THAT:

Section 1. Authority of City Manager. The Mayor and City Council of the City of North Miami, Florida, hereby authorize the City Manager to finalize and execute an agreement with 300 Engineering Group, P.A., for the provision of Services related to the installation of a sanitary sewer gravity main as part of the Breezeswept Tot-Lot Park Project, in an amount not to exceed Forty-Eight Thousand Two Hundred Thirteen Dollars (\$48,213.00), in accordance with *Request for Qualifications No. 08-17-18, Continuing Architectural & Engineering Services*.

Section 2. Effective Date. This Resolution shall become effective immediately upon adoption.

PASSED AND ADOPTED by a 5-0 vote of the Mayor and City Council of the City of North Miami, Florida, this 8th day of March, 2022.



PHILIPPE BIEN-AIME
MAYOR

ATTEST:



VANESSA JOSEPH, ESQ.
CITY CLERK

APPROVED AS TO FORM

AND LEGAL SUFFICIENCY:



JEFF P. H. CAZEAU, ESQ.
CITY ATTORNEY

SPONSORED BY: CITY ADMINISTRATION

Moved by: Galvin

Seconded by: Estimé-Irvin

Vote:

| | |
|-------------------------------------|---------------------------|
| Mayor Philippe Bien-Aime | <u>X</u> (Yes) _____ (No) |
| Vice Mayor Alix Desulme, Ed.D. | <u>X</u> (Yes) _____ (No) |
| Councilman Scott Galvin | <u>X</u> (Yes) _____ (No) |
| Councilwoman Kassandra Timothe, MPA | <u>X</u> (Yes) _____ (No) |
| Councilwoman Mary Estimé-Irvin | <u>X</u> (Yes) _____ (No) |

Exhibit "B"

City of North Miami

RFQ No. 08-17-18

Task # 4

Breezeswept Tot Lot 8-inch C-900 Sanitary Sewer Gravity Main

SCOPE OF WORK

Final

February 04, 2022

City of North Miami
Public Works Department
1855 NE 142 Street
Miami, Florida 33181

Wisler Pierre-Louis, P.E., LEED AP BD+C, CGC, CFM, PMP – Director



Prepared By:

300 Engineering Group, P.A.
2222 Ponce de Leon Blvd, Ste. 300
Miami, Florida, 33134
305-763-9829



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City of North Miami

RFQ No. 08-17-13

Task # 4

Breezeswept Tot Lot 8-inch C-900 Sanitary Sewer Gravity Main SCOPE OF WORK

INTRODUCTION

300 Engineering Group, P.A. (300 Engineering) was selected by the City of North Miami (City) to provide engineering services under the RFQ No. 08-17-18. The following task is being proposed under this scope of services.

- Task # 4 – “Breezeswept Tot Lot 8-inch C-900 Sanitary Sewer Gravity Main”

DESCRIPTION OF SERVICES

The City owns, maintains, and operates their water, wastewater and drainage systems. These systems are constantly in need of improvement to maintain a high level of service to their constituents.

The Breezeswept Tot Lot is a public park with future renovations in the planning phase where new sewage flows will be generated and discharged in the City's sewer collection system. Within these renovations, the City will be installing a new sewer cleanout at property line. 300 Engineering will design appx. 600 LF new sewer main connecting to a future cleanout (Folio No. 06-2230-029-0040), in addition to a new 8-inch C-900 Sanitary Sewer Gravity Main and multiple manholes as required by design, which will then discharge flows downstream into MH 7_74 of the City's Pump Station Breezeswept. The property located at 12599 NE 2nd Ave is currently connected to a sanitary septic tank and a proposed service lateral will be installed to allow for a future connection to the proposed gravity system. The following properties will also require sanitary sewer service laterals to enhance future connection to the proposed gravity system:

- a. Folio No. 06-2230-029-0030
- b. Folio No. 06-2230-029-0010
- c. Folio No. 06-2230-029-0020

300 Engineering is hereby presenting Engineering and Design Services scope of services to provide the City with an 8-inch C-900 Sanitary Sewer Gravity Main installation along NE 2nd Ave from the Breezeswept Tot Lot to City of North Miami Pump Station Breezeswept on NE 2nd Ave and NE 127th St. This project will be executed on a lump sum basis.

Task # 4 – “Breezeswept Tot Lot 8-inch C-900 Sanitary Sewer Gravity Main” has been divided into the following subtasks:

| Subtask | Description |
|---------|--|
| 100 | Project Management |
| 200 | Site Investigation |
| 300 | 60% Design Phase |
| 400 | 100 % Design and Bid Set Submittals |
| 500 | Permitting Support |
| 600 | Bid and Award Services |
| 700 | Limited Engineering Services During Construction |

100 Project Management

300 Engineering will provide project management services for the duration of the project. These services will include the following:

a. Kick-off Meeting

- Prepare for and attend to the project kickoff meeting to be held at the City's offices or via teleconference with representatives from the City. The purpose of this meeting is to confirm project objectives, review project timeline, define roles & responsibilities, and discuss communication plan
- 300 Engineering will prepare an agenda and meeting minutes for the kick-off meeeting

b. Project Progress Reports

300 Engineering will prepare monthly progress reports that will be issued to the City along with the monthly invoices. Monthly progress reports will include: overall status of the project, work performed during the work period, estimated completion of tasks and major sub-tasks, and current challenges/issues.

Deliverables

The following deliverables will be submitted to the City as part of Task 100:

- Meeting agendas and minutes (One (1) kick-off meeting)
- Monthly progress reports (Two (2) monthly progress reports)

200 Site Investigation

300 Engineering will identify utilities through coordination with Sunshine 811 for the extent of the project. Based on the information provided in this design ticket, 300 Engineering will request as-built data from utilities identified in the area, if needed. 300 Engineering will conduct one (1) site visit to the project site along with the topographic survey.

300 Engineering will also include topographic survey and geotechnical investigations under Task 200.

210 Topographic Survey

300 Engineering will use Miller Legg & Associates (MLA) to perform surveying services for the project area. MLA shall carry out a site survey in general accordance with the City Standards, if applicable. The survey will be signed and sealed by a Florida Registered Professional Land Surveyor. Please refer to Attachment C – “Surveying Scope of Work” for details and deliverables.

220 Geotechnical Services

300 Engineering shall contract the services of a Professional Geotechnical Engineer to perform Standard Penetration Test (SPT) borings at the project site in accordance with the American Society of Testing Materials (ASTM) D-1586. A total of two (2) soil borings to a depth of 20 feet are estimated, which shall be spaced at maximum of 400 feet. Excavation clearances shall also be provided under this task. The geotechnical investigation will provide information on the quality of the soils in the project area for trenching and pipeline installation. City shall approve this task before usage. Please refer to Attachment D – “Geotechnical Scope of Work” for details.

Deliverables

The following deliverables will be submitted to the City as part of Task 200:

- Existing Utilities Log. One (1) electronic copy
- Topographic Survey. One (1) signed and sealed electronic copy
- Geotechnical Report. One (1) signed and sealed electronic copy

300 60% Design Phase

300 Engineering will develop the 60% design submittal for the replacement of the gravity main along NE 2nd Ave. A draft Engineering Report will be prepared as part of this task. This technical memorandum will include a description of the project scope and basis of design and will be used as part of the documentation required for the sewer extension permit with Miami-Dade County Regulatory and Economic Resources. The 60% design phase will include the following activities:

- Identification and review of existing utilities in the area
- Verification of active and abandoned lateral connections
- Selection of proposed location of gravity sewer main within NE 2nd Ave
- Preparation of draft Engineering Report
- Preparation of 60% design drawings
- Preparation of table of contents for the technical specifications

The 60% drawings will include updated general & civil sheets, Maintenance of Traffic (MOT) and design details. The drawings and specifications shall include the necessary information to accommodate the proposed improvements. The specifications will be prepared based on City's and/or Miami-Dade Water and Sewer Department's (WASD) standard specifications.

The preliminary list of drawing is seen below

- P1: Title Sheet, Location and List of Drawings

- P2: Abbreviation, Symbols, General Notes and Legend
- P3: General Notes
- P4: Key Plan
- P5-P8: Gravity Main Installation Plan and Profile
- P9-10: Details
- P11: MOT Details

The 60% design submittal will be submitted to the City for review and comments. The City shall provide the comments to 300 Engineering in electronic format. It is anticipated that the City will complete its review of the 60% drawings and specifications within ten (10) working days of receipt of the submittal package.

300 Engineering will update the draft Engineering Report based on the comments received from the City and will prepare a Final Engineering Report.

Deliverables

The following deliverables will be submitted to the City as part of Task 300:

- Final Engineering Report. One (1) electronic copy
- 60% Submittal. One (1) electronic set of drawings (24x36-inch, scale 1:20) and one (1) electronic set of specifications

400 100 % Design and Bid Set Submittals

Upon receipt of the 60% comments from the City, 300 Engineering shall proceed with the preparation of the 100% design drawings. The 100% documents will be submitted to the City for final review and will be used to submit permit application to the permitting agencies.

300 Engineering will prepare the Bid Set of construction documents to be utilized for bidding purposes after receipt of comments from the permitting agencies and comments from the City on the 100% design submittal.

300 Engineering will also prepare an estimate of probable construction.

It is anticipated that the City will complete its review of the 100% complete plans and specifications within ten (10) working days of receipt of the submittal package.

Deliverables

The following deliverables will be submitted to the City as part of Task 400:

- 100% Submittal (to be used for permitting). One (1) electronic Signed and Sealed set of drawings (24x36-inch, scale 1:20)
- Bid Set Submittal (to be used for bidding purposes). One (1) electronic Signed and Sealed set of drawings (24x36-inch, scale 1:20) and one (1) set of specifications
- Class 1 Estimate of Probable Construction Cost. One (1) electronic copy

500 Permitting

300 Engineering will perform the following activities:

- Prepare one (1) permit application, per agency identified below

- Provide design data as required for permit approval from the various regulatory agencies
- Prepare signed and sealed contract documents for regulatory agency/City review, as described in task 500
- Respond to requests for information (RFIs) issued by the regulatory agencies within ten (10) working days of receipt of comments

Anticipated regulatory reviews are as follows:

Miami Dade RER/DERM

It is anticipated that a sewer extension permit will be required for the installation of the sanitary sewer main. 300 Engineering will estimate average flow based on land use and daily rated gallonage. Peak flow will be based on available SCADA data or using City given peaking factors. City will provide all available information related to hydraulic modeling, SCADA, hydraulic models, GIS, as-builts, others.

Miami Dade Water and Sewer Department

It is anticipated that coordination with WASD will be required for the plans review and approval of the Intermediate Downstream Collection and Transmission System (IDC&TS) Certification of Adequate Reserve Capacity (Utility Form).

City of North Miami Public Works/Building Department (Dry Run Permit for Underground Utilities)

It is anticipated that the installation of the new portions of pipeline will require coordination with the City of North Miami Public Works and Building Departments.

300 Engineering will respond to RFIs issued by the regulatory agencies as required. It is anticipated that up to two (2) RFIs per agency will be responded to during the permitting process.

Anticipated permitting fees are included in this proposal. If the permit fees exceed the values listed or additional permits are required, 300 Engineering will seek additional funding based on the cost difference between the anticipated permit fee and the actual fee.

Deliverables

The following deliverables will be submitted to the City as part of Task 500:

- One (1) permit application per agency (as outlined above)
- Responses to RFIs

600 Bid and Award Services

300 Engineering shall attend one (1) pre-bid conference for the project described herein. 300 Engineering shall prepare and distribute written meeting minutes to the bidders and attendees within three (3) calendar days after the pre-bid conferences.

300 Engineering shall receive, keep track, and provide timely responses to RFIs from contractors during the bid process. 300 Engineering shall prepare written addenda with RFIs and responses

and the final version of each addenda shall be transmitted to the City's designee for review and issuance.

Within five (5) calendar days of receipt of bids, 300 Engineering shall evaluate the bids for completeness, responsiveness, and price, including alternative prices and unit prices, and shall make a recommendation to the City regarding award of the contract for the project.

Deliverables

The following deliverables will be submitted to the City as part of Task 600:

- Pre-bid conference meeting minutes. One (1) electronic copy emailed to all bidders and attendees
- Formal Recommendation to the City regarding award of contract. One (1) electronic copy emailed to the City designee

700 Limited Engineering Services During Construction

300 Engineering shall provide the following engineering services during construction:

- Preparation of Responses to RFIs. The number of responses to RFIs from the contractor shall be limited to five (5) under this scope of work
- Review of shop drawings submittals. The number of responses to RFIs from the contractor shall be limited to five (5) under this scope of work
- Review and approval of contractor as-builts drawings, including verification of regulatory compliance and project certification
- Two (2) site visits towards project certification

Deliverables

The following deliverables will be submitted to the City as part of Task 700:

- RFI Response Memorandum. One (1) electronic copy emailed to the City designee per RFI
- Shop Drawing Submittal Review comments. One (1) electronic copy emailed to the City's designee per Shop Drawing review
- Daily Inspection Reports. One (1) electronic copy per report emailed to the City's designee
- As-built Review Memorandum. One (1) electronic copy emailed to the City's designee

SCHEDULE

A detailed project schedule will be generated and delivered to the City once NTP has been given. Design will be completed within two (2) months and permitting is anticipated to be approximately forty five (45) days.

COMPENSATION

The services described herein will be performed on a Lump Sum fee basis in the amount of \$48,212.24. Please refer to Attachment B - Engineering Services Labor and Expenses for fee details.

Task deliverables will be as detailed in the proposed Scope of Work and as approved by the City. Invoicing will be submitted along with the Monthly Status Report on a monthly basis.

ASSUMPTIONS

This Scope of Work and deliverables are based on the following assumptions:

- All requested information will be made available to 300 Engineering by the City
- Location of sewer connection point where future cleanout will be installed will be provided by the City at the 60% design phase. Further revisions to this cleanout location will not be made once the 60% plans have been approved and before the 100% design phase begins
- When available, the City will provide 300 Engineering with any requested AutoCAD information in electronic format
- The City acknowledges that 300 Engineering's analysis is based on information made available at the time of this Task Order and data gathered during site visits and meetings
- The City's staff will be available to attend meetings and assist 300 Engineering with site visits
- The City will provide front-end documents. 300 Engineering will prepare the technical specifications based on the City's Specifications, and/or Miami Dade Water and Sewer Department's (WASD)
- It is anticipated that the City will complete its review of submittals within ten (10) working days of receipt of the submittal package
- 300 Engineering shall not be responsible for any delays in the project caused by response times from the City and/or utility owners
- Performance durations provided assume timely permit processing by regulatory agencies having jurisdiction over the project. Delays in obtaining permits beyond the control of 300 Engineering and our subconsultants may result in delays to the performance schedule for which 300 Engineering cannot be held liable
- It is anticipated that the project flow will consist of less than 10,000 GPD and therefore will not require Hydraulic Modeling for permitting
- Subsurface Utility Exploration (SUE) is not included in this scope of work
- Water main design is not included on this scope of work
- Environmental Assessment/Remediation activities are not included in this scope of work
- 300 Engineering will only perform inspection services towards project certification
- Performance durations provided assume timely permit processing by Regulatory Agencies having jurisdiction over the project. Delays in obtaining permits beyond the control of 300 Engineering and our subconsultants may result in delays to the performance schedule for which 300 Engineering cannot be held liable
- Anticipated permitting fees are included in this proposal. If the permit fees exceed the values listed or additional permits are required, 300 Engineering will seek additional funding based on the cost difference between the anticipated permit fee and the actual fee
- Detailed MOT and by-pass plans shall be developed by the Contractor and are not included in this scope of work
- MOTs will be prepared using FDOT Standard Details
- 300 Engineering will not perform hydraulic modeling services under this scope of work
- No Public Outreach services are included as part of this scope of work
- Existing utilities will be identified and considered during the design phases of the project. If major utility relocation design efforts are needed, this might require a revision of the

scope of work 300 Engineering shall be limited within work on public right-of-way. No MEP Engineering is included on this scope

- This proposal anticipates that submittal review commentary items that can significantly impact the design plans and technical specifications shall be provided during the 60% review stages. Due to this, significant revision or addition requests received after the approval of the 60% submittal is subject to supplemental services that are not included in this proposal
- Non-Solicitation of Employees and Independent Contractors and Covenant Not to Hire. The City agrees that they will not, directly or indirectly, initiate efforts aimed at the hiring of 300 Engineering's employees or independent contractors or solicit, hire, employ, recruit, 300 Engineering's employees or independent contractors, without the prior written approval of 300 Engineering's until after three (3) years from the effective date of this Agreement
- In consideration of this Project, unrestricted access to data and information sources is made available to 300 Engineering. 300 Engineering shall comply fully with all security procedures and shall not divulge to third parties all confidential Data Information obtained from the City of North Miami while performing consulting services, including, but not limited to, security procedures, business operations information or proprietary information in the possession of the City of North Miami. 300 Engineering shall not be required to keep confidential information or material that is publicly available through no fault of 300 Engineering, material that 300 Engineering developed independently without relying on the State's or Customer's confidential information, or material that is otherwise obtainable under State Law as a public record

Attachment A

Project Limits



City of North Miami

RFQ No. 08-17-13

Task # 4

Breezeswept Tot Lot Sanitary 8-Inch Sewer Gravity Main

Attachment A – Project Limits

Attachment B

Engineering Services Labor and Expenses



City of North Miami
RFQ No. 08-17-13

Task # 4

Breezeswept Tot Lot Sanitary Sewer Gravity Main
Proposed Fee Schedule
Attachment B

| Task | Raw Rate, \$/Hr Rate* 3.00 Multiplier, \$/Hr | Principal | Project Manager | Engineer of Record | Project Engineering | Junior Engineer/CADD Technician | Total Hours | Budget | | Remarks | |
|------|--|---------------------|---------------------|---------------------|------------------------|---------------------------------------|-------------|-------------|-------------|-------------------------|--|
| | | \$80.00 \$240.00 | \$52.88 \$158.64 | \$65.00 \$195.00 | \$33.65 \$100.95 | \$25.00 \$75.00 | | Labor | Subtotal | | |
| 100 | Project Management | 2 | 4 | 1 | 8 | 0 | 15 | \$2,117.16 | \$2,117.16 | | |
| 200 | Site Investigation | 2 | 8 | 4 | 0 | 40 | 54 | \$5,529.12 | \$5,529.12 | | |
| 210 | Topographic Survey | | | | | | | \$8,900.00 | | Lump Sum & Per Unit Fee | |
| 220 | Geotechnical Services | | | | | | | \$2,239.00 | | Lump Sum & Per Unit Fee | |
| 300 | 60% Design Phase | 2 | 8 | 20 | 18 | 40 | 88 | \$10,466.22 | \$10,466.22 | | |
| 400 | 100 % Design and Bid Set Submittals | 2 | 6 | 12 | 12 | 15 | 47 | \$6,108.24 | \$6,108.24 | | |
| 500 | Permitting Support | 1 | 4 | 6 | 16 | 10 | 37 | \$4,409.76 | \$4,409.76 | | |
| 600 | Bid and Award Services | 1 | 2 | 4 | 8 | 2 | 17 | \$2,294.88 | \$2,294.88 | | |
| 700 | Limited Engineering Services During Construction | 1 | 4 | 8 | 14 | 4 | 31 | \$4,147.86 | \$4,147.86 | | |
| | Total (Hours) | 11 | 36 | 55 | 76 | 111 | 289 | | | | |
| | Sub-Total Labor Fee | | | | | | | \$35,073.24 | \$46,212.24 | | |
| | ODC's (Permit Fee Reimbursables) | | | | | | | | \$2,000.00 | | |
| | Sub-Total Labor Fee/ODC | | | | | | | | \$48,212.24 | | |
| | Total Project Cost (Labor/ODC) | | | | | | | | \$48,212.24 | | |
| | % Utilization | 3.81% | 12.46% | 19.03% | 26.30% | 38.41% | 100.00% | | | | |
| | Total (\$) | \$2,640.00 | \$5,711.04 | \$10,725.00 | \$7,672.20 | \$8,325.00 | | | \$48,212.24 | | |

Attachment C

Surveying Scope of Work



August 10, 2021

Via E-mail:nfernandez@300engineering.com

Mr. Nicholas J Fernandez, PE.
Project Manager
300 Engineering Group, P.A..
2222 Ponce De Leon Blvd.
Suite 300
Coral Gables, FL 33134

**Re: Sewer Line Addition along NE 2nd Avenue North of NE 125th for the City of North Miami (Breezeswept Tot Lot Sewer - Topographic Survey (the "Project"))
Miller Legg Proposal No.21-P0310**

Dear Mr. Fernandez

Thank you for the opportunity to submit the attached Agreement for Professional Services to assist you with a topographic survey for the City of North Miami Breezeswept Tot Lot Sewer project.

Please have an authorized Client signatory sign and initial the attached Agreement and Exhibit A page where indicated, complete the Client Billing Instructions, and return for Miller Legg's execution. A fully executed copy will be emailed to you for your file.

Should you have any questions, please do not hesitate to contact me at (954) 628-3675, or mrossi@millerlegg.com. Again, thank you for this opportunity, and I look forward to speaking with you soon.

Very truly yours,

A handwritten signature in blue ink that reads "Martin P. Rossi".

Martin P Rossi P.S.M.
Project Manager

MR/se/dm
Attachment(s) Exhibit A, Exhibit B

V:\Proposals\2021\21-P0310 - N Miami Breezeswept Sewer\Documents\Contracts

IMPROVING COMMUNITIES. CREATING ENVIRONMENTS.

South Florida Office: 5747 N Andrews Way • Fort Lauderdale, Florida 33309-2364
(954) 436-7000 • Fax: (954) 493-6539
www.millerlegg.com

AGREEMENT FOR PROFESSIONAL SERVICES

Client: 300 Engineering Group, P.A **Client Representative:** Nicholas Fernandez
2222 Ponce De Leon Blvd., Suite 300
Address: Coral Gables, FL 33134 **Address:** same
Phone /Fax: 305-602-4602/ 305-675-2373 **Email:** _____

Date: 8/10/21 **Proposal No.** 21-P0310 **T:** 52S **R:** 42E **S:** 30

Project Name and Location: Breezeswept Tot Lot Sewer - Topographic Survey (the "Project")
City of North Miami, Miami-Dade County, FL

Description of Services to be Provided: See Exhibit A

Fee: Lump Sum of \$8,900.00 **AND** Hourly not to exceed (NTE) fee of \$ n/a
AND Reimbursable Expenses Lump Sum of \$ n/a
AND Reimbursable Expenses Initial Budget of \$ n/a

Retainer: (Payable upon execution of this Agreement) **N/A**

Special Conditions: _____

Notice to Owner: Is the Client the Owner of the Property? Yes No
If "No", Owner's name and address: City of North Miami, Miami-Dade County, Florida.

The undersigned agree to the attached General Conditions and Special Provisions which are incorporated and made a part of this Agreement. Any additional requested services will be addressed in a separate agreement.

Miller, Legg & Associates, Inc. d/b/a Miller Legg
(Consultant)

300 Engineering Group, P.A (Client)

Date: _____

Date: _____

Signature _____

Signature _____

Leslie Hernandez, CFO
Vice President

Printed Name/Title

MR/se/dm
Attachments: General Conditions/Special Provisions
Client Billing Instructions
Exhibit A, and B



GENERAL CONDITIONS

These general conditions are attached and made part of proposals and agreements for services by Miller Legg, the Consultant.

1.0 Standard of Care

Consultant, providing services under the Agreement, will endeavor to perform in a manner consistent with the degree of care and skill exercised by members of the same profession under similar current circumstances. The Consultant, cannot and does not warrant or guarantee that the Client's Project will comply with all interpretations of the Americans with Disabilities Act (ADA) requirements.

2.0 Basic Services

Consultant shall provide the mutually agreed-upon services outlined in the Agreement. Any services not specifically outlined in the Agreement are specifically excluded from the scope of Consultant's services. Consultant assumes no responsibility to perform any services not specifically addressed in the Agreement.

3.0 Additional Services

If mutually agreed to in writing by the parties, in advance, Consultant will provide additional services, which shall be documented and appended hereto. Additional services are not included as part of the basic scope of services and shall be paid for by Client in addition to the payment for basic services. Payment for additional services shall be in accordance with Consultant's Rate Schedule, as provided for in Section 5.0, Compensation, or as otherwise mutually agreed to by the parties.

4.0 Client Responsibilities

Unless otherwise designated in writing, the Client's representative with respect to Client shall designate in writing, a person to act as his/her representative with respect to the services to be rendered under the Agreement will be the individual designated as such on the signature page. Client shall provide all criteria and information required for Consultant to perform services under the Agreement. Client shall provide for access to and make all provisions for Consultant to enter upon public and private property as required to perform services under the Agreement.

5.0 Compensation

a) Monthly progress invoices for basic services and additional services will be submitted to Client by Consultant based on percent complete for each project task. Amount of each progress invoice shall be based upon percent complete of Consultant's contracted work, not based upon progress of any parties not under Consultant's control. Hourly services shall be invoiced based on applicable hourly rates in accordance with the Rate Schedule which is subject to semi-annual adjustment.

b) These invoices are due upon presentation and shall be considered past due if not paid within thirty (30) calendar days. Fees are not based upon pay if paid terms. Fees are not based upon pay when paid terms except if specifically agreed to in writing by both parties under the Special Provisions section of this Agreement. Consultant payment shall not be delayed from submittal to Prime and/or Owner for processing when serving as a sub-consultant. Consultant shall have the right to communicate directly with the Prime and/or Owner regarding delays in payment from Client for services rendered under this Agreement as a sub-consultant.

c) In order to provide uninterrupted service by Consultant, Client is required to promptly pay submitted invoices. Client shall have a fourteen (14) day review period to request clarification or additional information regarding an invoice. If no request is made during the review period, the invoice is deemed approved and payment will be made in the full amount of the invoice. If payment in full is not received by Consultant within thirty (30) calendar days, all past due amounts shall bear interest at one and one-half (1.5) percent per month from said thirtieth (30th) day.

d) If Client fails to make payments when due or otherwise breaches the Agreement, Consultant may suspend performance of services with *seven (7) days written* notice to Client. Consultant shall have no liability whatsoever to Client for any costs or damages whatsoever as a result of such suspension caused by any breach of the Agreement by Client. Upon payment in full by Client, Consultant may, upon written agreement of both parties, resume services under the Agreement and the time schedule and compensation shall be equitably adjusted to compensate for the period of suspension plus any other reasonable time and expense necessary for Consultant to resume performance.

e) Payment of invoices is in no case subject to unilateral discounting or setoffs by Client and payment is due regardless of suspension or termination of the Agreement by either party.

f) Retainer shall be paid to Consultant by Client prior to commencement of services. This retainer shall be applied to the final invoice for services provided under this Agreement.

6.0 Permit, Agency and Application Fees

Client shall be responsible for and pay all project-related fees including, but not limited to, permitting, filing, recording, inspection, plan review, DRI, PUD, rezoning and impact fees. Any mutually agreed-upon project-related fee up to \$500 may be paid by Consultant and invoiced as a reimbursable expense.

7.0 Collection Costs

In the event that any invoice or portion thereof remains unpaid for more than thirty (30) days following the invoice date, Consultant may initiate legal action to enforce the compensation provision of the Agreement. Consultant is entitled to collect any judgment or settlement sums due, reasonable attorney fees, court costs, interest and expenses incurred by Consultant and Consultant's time charged at the hourly rates of the current hourly rate sheet in connection with the collection of any amount due under the Agreement.

8.0 Reimbursables

Project-related expenses such as travel, lodging, per diem, long distance communications, postage, shipping, reproductions, approved subcontracted services and other necessary and customary costs shall be paid to Consultant by Client. These reimbursables shall be compensated at:

- Unit prices per Consultant's Rate Schedule.
- Out-of-pocket expenses billed at a multiplier of 1.15 to cover processing costs.

9.0 Taxes

Any government-imposed taxes or fees shall be added to the invoice and paid by Client to Consultant for services under the Agreement.

10.0 Indemnification

a) Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless Consultant, its officers, directors, employees and independent subconsultants against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, arising out of or connected with the Agreement or performance by any of the parties above-named, of the services performed under the Agreement, except (i) those damages, liabilities or costs attributed to the negligent acts or negligent failures to act by Consultant specifically in the performance of the Agreement, or (ii) those liabilities or costs attributed to grossly negligent or intentional acts by Consultant occurring other than in the specific performance of the Agreement.

b) Client agrees that as Client's sole and exclusive remedy, any claim, demand or suit shall be directed and/or asserted only against Consultant, a Florida corporation, and not against any of Consultant's employees, officers or directors, and specifically waives the bringing of any such claims against said individuals.

c) In the event that any third party, whether or not such third party is a party to this Agreement, should bring an action, assert a claim, or have imposed upon Consultant, its officers, directors, employees and independent subconsultants any judgment, damages or liability where such claim is, in any way whatsoever, asserted due to the existence of this Agreement or any services rendered or performed by Consultant, its officers, directors, employees and independent subconsultants in connection therewith, Client agrees, subject to Article 10.a hereof, to indemnify and hold Consultant, its officers, directors, employees and independent subconsultants harmless of and from any and all claims, liabilities, damages, costs, judgment or other amounts which may be awarded against Consultant, its officers, directors, employees and independent subconsultants, or any of the foregoing.

11.0 Limitation of Liability

a) **PER FLA. STATUTE 558.0035, A DESIGN PROFESSIONAL EMPLOYED BY CONSULTANT IS NOT INDIVIDUALLY LIABLE FOR DAMAGES RESULTING FROM NEGLIGENCE OCCURRING WITHIN THE COURSE AND SCOPE OF THIS AGREEMENT.**



b) In recognition of the relative risks and benefits of the project to both Client and Consultant, Client agrees to the fullest extent permitted by law, to limit the liability of Consultant and/or its employees, officers, directors, partners, agents and/or representatives to Client and/or any person and/or entity claiming by and/or through Client for any and all claims, losses, costs, damages or claim's expenses from any cause or causes, including, but not limited to, attorney fees and costs resulting from Consultant's negligent acts, errors and/or omissions. The total liability of Consultant to Client shall in no event exceed \$100,000.

12.0 Instruments of Service Ownership

a) All reports, plans, specifications, electronic files, field data, notes and other documents and instruments prepared by Consultant as the Agreement's instruments of service shall remain the property of Consultant. Consultant shall retain all common law, statutory and other reserved rights, including the copyright thereto.

b) Instruments of service by Consultant are for the sole use of Client and are not to be copied or distributed, in any manner, to a third party, without the express written permission of Consultant. Electronic information or files are for informational purposes only. It is the responsibility of Client to verify the accuracy of the information therein and to hold Consultant harmless for any damages that may result from the use of the information. Client at his own cost shall be responsible for validating any and all electronic information provided.

13.0 Governing Law

Client and Consultant agree that the Agreement and any legal actions concerning said Agreement shall be governed by the laws of the State of Florida.

14.0 Mediations/Dispute Resolution

a) To resolve any conflicts which might arise during the performance of Consultant's services under the Agreement, or during the construction of the Project, and/or following the completion of the project, Client and Consultant agree that all disputes, pertaining to the performance of services by Consultant, shall be first submitted to non-binding mediation. Failure by any party to fully comply with the pre-suit mediation provision shall, upon finding by a court and/or jury, constitute a waiver of this condition precedent. The fees and/or costs of mediation shall be equally borne by the parties to the Agreement.

b) In the event of litigation, disputes shall be resolved in the circuit court of the Florida county in which the Project is located under the Agreement. The prevailing party in such litigation shall be entitled to recover from the non-prevailing party all reasonable attorney fees, taxable court costs, expert witness fees and costs, demonstrative evidence costs, and such other reasonable fees and/or costs generally associated with the litigation of such matters, as determined upon hearing, post-trial, by the court.

c) Irrespective of any contract provision or obligation of either party hereunder pursuant to contract or agreement with person(s) and/or entity(ies) not specifically named herein, Consultant shall not be obligated to participate in, nor be a named party in, any arbitration proceeding without the express written consent of Consultant.

15.0 Delays

a) In the event the project under the Agreement is delayed by any act or omission by Client or any other causes beyond Consultant's exclusive control, Client agrees that Consultant is not responsible for any and all damages arising directly or indirectly from such delays. If the delays resulting from any such causes are fifteen (15) days or more, or increase the cost or time required by Consultant to perform its services in an orderly and efficient manner, Consultant shall be entitled to an equitable adjustment in schedule and/or compensation prior to re-commencing work on the project.

b) Client recognizes and agrees that factors both within and without Consultant's control may delay the work performance, permit issuance, design and construction of the project. Client agrees that it shall not be entitled to any claim for damages due to hindrances or delays from any cause whatsoever including, but not limited to: the production of contract documents; review of documents by any government agency; issuance of permits from any government agency; beginning or completion of construction; or performance of any task of the work pursuant to the Agreement. Permitting is a regulatory function and Consultant does not guarantee issuance of any permit. Agency reviews and permitting are deemed "factors" outside Consultant's control.

16.0 Termination

The Agreement and the obligation to provide further services under the Agreement may be terminated by either party upon seven (7) days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. Consultant shall have the right to terminate this Agreement for Consultant's convenience and without cause upon giving the Client seven (7) days written notice. In the event of termination of the Agreement by either party, Client shall within fifteen (15) calendar days of termination, pay Consultant for all services rendered to date, all reimbursable costs and termination expenses incurred by Consultant up to the date of termination, in accordance with the payment provisions of the Agreement.

17.0 Renegotiation of Fees

Consultant reserves the right to renegotiate fixed fees to reflect changes in price indices and pay scales applicable to the period when services are rendered.

18.0 Construction Phase

a) Consultant shall not, during any site visits or as a result of observing Contractor's (s') work in progress, supervise, manage, direct or have control over Contractor's (s') work. Nor shall Consultant have any authority or responsibility for the means, methods, techniques, sequences or procedures of construction selected by Contractor(s) for safety precautions and programs incident to the work of Contractor(s) or for any failure of Contractor(s) to comply with laws, rules, regulations, ordinances, codes or orders applicable to Contractor(s) furnishing and performing its work. Consultant can neither guarantee the performance of the construction contracts by Contractor(s) nor assume any responsibility for Contractor's (s') failure to finish and perform its work in accordance with the contract documents.

b) If construction phase services including project observation or review of the Contractor's performance are not part of this Agreement, such services will be provided for by the Client. The Client assumes all responsibility for interpretation of the Contract Documents and for construction observation, and the Client waives any claims against the Consultant that may be in any way connected thereto.

19.0 Hazardous Materials

Consultant's Scope of Services does not include any services related to the presence of any hazardous or toxic materials including, but not limited to asbestos, toxic or hazardous waste, PCB's, combustible gases and materials, petroleum or radioactive materials. In the event any hazardous or toxic materials are present on or about the job site or any adjacent areas that may affect the performance of Consultant's services, Consultant may, at its option and without liability for consequential or other damages, suspend performance of its services under the Agreement until Client retains appropriate consultants or contractors to identify and abate or remove the hazardous or toxic materials in full compliance with all applicable laws and regulations.

20.0 Signage

Client agrees to provide Consultant with a location for Consultant's temporary construction signage on the project site before and during construction activities.

21.0 Successors and Assigns

Neither party to the Agreement shall transfer, sublet or assign any rights under or interest in the Agreement (including, but without limitation, monies that may become due or monies that are due) without the prior written consent of the other party. Subcontracting to subconsultants normally contemplated by Consultant shall not be considered as an assignment for purposes of the Agreement. Consultant assignment of payment rights as part of Consultant's typical operations funding process through a factoring company or similar non-traditional banking relationship shall be authorized.

END OF DOCUMENT



SPECIAL PROVISIONS

These special provisions are attached hereto, and made a part of, this Agreement for Professional Services for **Breezeswept Tot Lot Sewer, Topographic Survey (the “Project”), Proposal No. 21-P0310** by Miller Legg, the Consultant.

1.0 This page intentionally left blank.



CLIENT BILLING INFORMATION

The following billing information must be completed by the Client. Client must notify Consultant of any changes to this information within one billing cycle.

I) PROJECT & CONTACT INFORMATION

Project Name: _____ Accounting/Billing Contact: _____
Project Manager Name: _____ Accounting Check Run Dates: _____
Phone Number: _____ Phone Number: _____
Fax Number: _____ Fax Number: _____
E-mail Address: _____ E-mail Address: _____

II) BILLING INFORMATION

Original Invoice should be addressed as follows:

Client/Company Name: _____
Attention: _____
Billing Address: _____

Fax Number: _____

Copies should be forwarded to:

Client/Company Name: _____
Attention : _____
Billing Address: _____

Fax Number: _____

III) INVOICE SUPPORTING DOCUMENTS/FORMATTING

Please note that additional fees may be added for any of the following services:

Special Invoice Requirements _____
(provide details/include copy) _____

Project/P.O./Contract Number Reference _____

Number of Invoice Copies _____

Comments: _____

IV) PAYMENT OPTIONS

Please check appropriate box. Check Direct Deposit/Wire Transfer

Note: Please include our invoice number on your check.

Note: Please reference our project number when you set up the wire transfer. Bank info will be provided upon completion of form.



EXHIBIT A – SCOPE OF SERVICES
Breezeswept Tot Lot Sewer - Topographic Survey (the “Project”)
Proposal No. 21-P0310

1.0 PROJECT DESCRIPTION

1.1 The Project is generally described as follows: **Consultant shall perform a Topographic Survey within the outlined area as shown on attached Exhibit B. Project area is in City of North Miami, Miami-Dade County, Florida.**

2.0 BASIS OF SCOPE

2.1 Survey:

- Topographic survey elevations will be shown at 50-foot grid; invert elevations are shown, within full right-of-way.
- The depiction of trees located will be 4-inch DBH and larger.
- Invasive exotic trees will NOT be located and will NOT be on survey.
- All fees within this proposal are based on performing each task one (1) time only. Additions or modifications to the scope, re-staking and the resulting CAD and project management time, will be invoiced hourly per the attached hourly Rate Schedule as an additional service.

2.2 Subsurface Utility Engineering (SUE) Services: (Not Required)

3.0 SCOPE OF BASIC SERVICES AND FEE

SURVEY TASK

Task 1 **Topographic Survey** - Consultant shall prepare a Topographic Survey at a 50-foot grid showing above-ground improvements and locations of hardwood and palm trees only. Invasive exotics will NOT be located. Inverts, elevations of storm and sanitary sewer structures along NE 2ND Avenue, as depicted on attached EXHIBIT B, will be shown. Rights-of-way and easements of record as shown on applicable recorded plats adjoining or across the property will be shown.

| FEE SUMMARY | | | |
|--------------------|----------------------|---------------------|-----------------------|
| TASK NUMBER | TASK | LUMP SUM FEE | HOURLY NTE FEE |
| TASKS | | | |
| Task 1 | Topographic Survey | \$8,900.00 | -- |
| | | | |
| | Total Fee Sum | \$8,900.00 | |
| | | | |

V:\Proposals\2021\21-P0310 - N Miami Breezeswept Sewer\Documents\Contracts

EXHIBIT B





2021 RATE SCHEDULE

| <u>Professional Services</u> | <u>Hourly Rate</u> |
|---|-----------------------|
| <i>Project Administrator/Technician</i> | \$75 |
| <i>Specialist</i> | \$95 |
| <i>Senior Specialist I</i> | \$115 |
| <i>Senior Specialist II</i> | \$135 |
| <i>Senior Specialist III</i> | \$155 |
| <i>Designer I</i> | \$90 |
| <i>Designer II</i> | \$100 |
| <i>Senior Designer</i> | \$120 |
| <i>Engineer I</i> | \$115 |
| <i>Engineer II</i> | \$140 |
| <i>Engineer III</i> | \$170 |
| <i>Senior Engineer</i> | \$195 |
| <i>Biologist/Scientist I</i> | \$80 |
| <i>Biologist/Scientist II</i> | \$110 |
| <i>Senior Biologist/Scientist I</i> | \$145 |
| <i>Senior Biologist/Scientist II</i> | \$165 |
| <i>Landscape Architect I / Planner I</i> | \$105 |
| <i>Landscape Architect II / Planner II</i> | \$125 |
| <i>Senior Landscape Architect/Senior Planner I</i> | \$150 |
| <i>Senior Landscape Architect/Senior Planner II</i> | \$175 |
| <i>Surveyor</i> | \$105 |
| <i>Senior Surveyor</i> | \$150 |
| <i>2-Person Survey Crew</i> | \$140 |
| <i>3-Person Survey Crew</i> | \$170 |
| <i>4-Person Survey Crew</i> | \$195 |
| <i>Senior 2-Person Survey Crew</i> | \$155 |
| <i>Senior 3-Person Survey Crew</i> | \$200 |
| <i>Senior 4-Person Survey Crew</i> | \$220 |
| <i>Principal</i> | \$245 |
| <i>Senior Principal</i> | \$325 |
| <i>Expert Witness</i> | \$325 |
| <u>Sub Surface Utility Engineering</u> | <u>Rate</u> |
| <i>Designation (Utility Location)</i> | \$1,500/Day |
| <i>Test Holes (Maximum of 5 holes)</i> | \$2,000/Day |
| <u>In-house Reimbursable Expenses</u> | <u>Rate</u> |
| <i>Mileage (per mile)</i> | \$0.75 |
| <i>Color Copies (<8 1/2" X 11") (per copy)</i> | \$1.00 |
| <i>Color Copies (<11" X 17") (per copy)</i> | \$2.00 |
| <i>Blackline Prints (<24" X 36") (per sheet)</i> | \$2.20 |
| <i>Mylars (<24" X 36") (per sheet)</i> | \$28.00 |
| <i>Vellums (<24" X 36") (per sheet)</i> | \$5.50 |
| <i>Official Record Docs (per page)</i> | \$1.00 |
| <i>Copies, postage, fax transmissions</i> | (A) |
| <u>Out-of-Pocket Expenses</u> | <u>Cost + 15%</u> |
| (A) Charges for monthly copies, fax transmissions, postage, and long distance will be the greater of 0.5% of invoice amount or \$25.00. | |

NOTE: These rates are subject to change after January 1, 2022.

Attachment D

Geotechnical Scope of Work

Grounded in Excellence

November 3, 2021

300 Engineering Group, P.A.
2222 Ponce de Leon Blvd Suite 300
Coral Gables, FL 33134

Attention: Nicholas J Fernandez, PE
Project Manager

Reference: **Proposal for Geotechnical Services**
City of North Miami Breezeswept Tot Lot
Along NE 2nd Avenue, North of NE 125th Street
North Miami, Miami-Dade County, FL 33161
UES Proposal No.: 2130.1021.00017

Dear Mr. Fernandez:

Universal Engineering Sciences (UES) is pleased to submit our proposal to conduct a geotechnical exploration for the above-referenced project.

INTRODUCTION

Based on information you provided to us, we understand that the project consists of the installation of a new pump station in North Miami, Miami-Dade County, Florida. We understand the improvements will also include a 700 linear foot force main.

At this time, information regarding the project is very limited. We have been provided with an aerial image of the pump station location and proposed force main. We have not been provided with an existing survey of the site, a preliminary site plan, or any structural design loads. Although we do not anticipate that the proposed field exploration will require permitting and maintenance of traffic (MOT), any permits required from the City of North Miami, Florida Department of Transportation (FDOT), or Miami-Dade County will need to be completed and provided by the client. MOT costs will be determined after the permitting process and a change order will be issued.

This geotechnical proposal was prepared to obtain geotechnical data for use in foundation design and site preparation by others. This proposal is not intended to provide any foundation recommendations.

SCOPE OF SERVICES

The scope of services described in this proposal does not include soil/groundwater assessment, contamination delineation, radon, vapor intrusion, wetlands, lead in drinking water, lead-based paint survey, environmental compliance or construction materials testing. UES can provide these additional services, and we would be pleased to develop an appropriate scope of service and fee estimate for these services, if you wish.

Geotechnical Exploration

Based on our experience and knowledge of the geology, we recommend the following:

- ❖ One (1) Standard Penetration Test (SPT) borings to a depth of 20 feet below existing grades near the existing pump station to provide data for foundation evaluation by others.

Standard Penetration Tests (SPT) will be performed continuously in the upper 10-feet of each boring and on 5-foot centers after that to the bottom of the borings. All boreholes will be backfilled with soil cuttings to the ground surface. Our field representative will visually classify the soil/rock samples at each test interval and place them in clean airtight bags that are labeled for future identification. Groundwater levels will be obtained in each boring upon initial encounter and later when the water table has stabilized.

We will layout the test locations and perform underground utility clearances for public utilities prior to mobilizing. UES will not be held responsible for damage to private utilities as a result of our drilling operations unless the utilities are properly identified to us in the field.

We have assumed the site is accessible to our personnel and truck-mounted drill rig and that you will provide the right of access. If the site cannot be accessed with the use of a truck-mounted drill rig, an additional fee will be required for specialty drilling equipment (track-mounted rig, mud bug, amphibious equipment, etc.).

Laboratory Testing Services

The soil/rock samples recovered from the field exploration program will be transported to our Miami laboratory for better classification testing and to determine the pertinent engineering properties for foundation design and site preparation recommendations. Any laboratory testing that may be performed will be limited to soil classification testing.

Geotechnical Data Reporting

At the completion of the field and laboratory testing services, our Geotechnical Project Engineer will prepare a data report under the direction of a registered Professional Engineer who specializes in geotechnical engineering consulting. The geotechnical data report(s) will contain the following information at a minimum:

- ❖ Methods and procedures for field sampling and laboratory testing
- ❖ Test boring logs and classifications
- ❖ Laboratory test results
- ❖ Summary of subsurface stratification
- ❖ Existing groundwater levels and estimated seasonal high and low levels
- ❖ Distribution and thickness of unsuitable bearing soils (if any)
- ❖ Any other information deemed appropriate by the Geotechnical Engineer based on our study.

SCHEDULE

The proposed scope of work can be completed within four to eight weeks from the date of authorization of receiving the permit(s) approval, if necessary.

PROPOSAL

We propose to conduct the geotechnical services for a Lump Sum Fee of **\$2,239.00**. This fee proposal shall remain effective for sixty (60) days. Should you require more than sixty (60) days to formally authorizing us to proceed, we request that you permit us to update our proposal to account for any changes in fees. If you would like us to proceed, please sign and return a copy of the enclosed Work Authorization/Proposal Acceptance Form.

Additional work required beyond the scope of services included in this proposal, or as caused by factors beyond UES control, will be invoiced on a time and expense basis. Additional work will not be performed without prior authorization.

UES proposes to provide additional services beyond those listed within this proposal at the following rates. The hourly rates are portal to portal, where applicable for work completed Monday through Friday, 8 a.m. to 5 p.m. Holidays, Weekends, Non-Standard and Overtime hours will be charged at 1.5 times the hourly rates herein with a minimum of 3-hours. Two virtual meetings (up to 4 hours) are included in our lump sum fee.

HOURLY PAY RATE

| | |
|--|------------|
| Geotechnical Engineer, per hour | \$250 |
| Additional SPT Borings, per foot (minimum 40 ft.) | \$40 |
| Administrative, per hour..... | \$65 |
| Reimbursable Expenses such as supplies, printing, etc..... | Cost + 15% |
| Unforeseen Circumstances due to site conditions such as rig repairs, additional tooling, etc. .. | Cost + 15% |

Universal Engineering Sciences appreciates this opportunity to offer our services, and we are looking forward to the assignment. Please call if you have any questions.

Sincerely,
Universal Engineering Sciences

Melissa De La Rosa

Melissa De La Rosa, EI
Asst. Geotechnical Department Manager

Rachel Perez

Rachel Perez
Geotechnical Project Manager

Enclosures: Work Authorization/Proposal Acceptance Form
General Contract Conditions

Notes:

1. Additional services, consultations, or meetings if requested, will be invoiced at Universal Engineering Sciences' standard rates.
2. This fee estimate includes four (4) copies of the final report and an electronic PDF copy of the report.
3. This fee proposal will remain effective for 60 days. If you should require more than 60 days to formally authorize us to proceed, we request that you permit us to update our proposal to account for any changes in costs.
4. We have made a good faith effort to work with you to develop a work scope and fee estimate. Because of the possibility of unknown, discovered, underground conditions and/or the need for additional services that neither you nor we can currently foresee, we recommend that you budget a contingency equal to 15% of the total fee estimate. We will not use the contingency amount without first notifying you.
5. The Client will be responsible for all applicable taxes

N

Locate Pump Station Wells

Appx. 700 LF

1 Soil Boring near existing Pump Station

NE 2nd Ave

NE 2nd Ave

NE 125th St

NE 2nd Ave

Breezeswept Tot Lot

NE 1st Ct

922

12435

12450

12425

12420

0432

12422

922

8

UNIVERSAL ENGINEERING SCIENCES

Work Authorization / Proposal Acceptance Form

IF PROPOSAL IS ACCEPTED, SIGN BOTH FORMS, RETURN ONE FORM TO UNIVERSAL AND RETAIN ONE FOR YOUR FILES.

Universal Engineering Sciences (**UES**) is pleased to provide the services described below. The purpose of this document is to describe the terms under which the services will be provided and to obtain formal authorization.

PROJECT NAME: **City of North Miami Breezeswept Tot Lot**

PROJECT LOCATION: Along NE 2nd Avenue, North of NE 125th Street; North Miami, FL 33161

CLIENT NAME: 300 Engineering Group, P.A. **Attn:** Nicholas J Fernandez, PE **Phone:** 305-602-4602

CLIENT ADDRESS: 2222 Ponce de Leon Blvd Suite 300 Coral Gables, FL 33134 **Email:** njfernandez@300engineering.com

I. Scope of Services and Understanding of Project (See attached proposal or as indicated below)

UES Opportunity No.: **2130.1021.00017**

Geotechnical Exploration: **\$2,239.00**

II. Contract Documents. The following documents form part of this Agreement and are incorporated herein by referral:

A. **UES** General Conditions. B. **UES** Proposal Dated: November 3, 2021

C. Plans, reports, specifications and other documents provided by the Client prior to this Agreement date.

C. Other exhibits marked and described as follows: Exhibit I

In the event of any inconsistency or conflict among the Contract Documents, the provision in the Contract Document first listed above shall govern.

III. Authority to proceed and for payment. (To be completed by Client)

If the invoice is to be mailed for approval to someone other than the account charged, please indicate where, below:

Social Security Number or

Firm: _____ Federal Identification No.: _____

Address: _____ City: _____ Zip: _____

Attention: _____ Title: _____

IN WITNESS WHEREOF, the parties have caused this agreement to be executed by their duly authorized representatives

CLIENT _____ **UNIVERSAL ENGINEERING SCIENCES**

BY (Signature) _____ BY (Signature) _____

TYPED NAME _____ TYPED NAME _____

TITLE _____ TITLE _____

DATE _____ DATE _____

Return Executed Copies to: Universal Engineering Sciences

8050 NW 77th Court, Medley, FL 33166

Phone (305) 249-8434 • Fax (305) 249-8479

Universal Engineering Sciences, LLC
GENERAL CONDITIONS

SECTION 1: RESPONSIBILITIES **1.1** *Universal Engineering Sciences, LLC*, and its subsidiaries and affiliated companies ("UES"), is responsible for providing the services described under the Scope of Services. The term "UES" as used herein includes all of UES's agents, employees, professional staff, and subcontractors. **1.2** The Client or a duly authorized representative is responsible for providing UES with a clear understanding of the project nature and scope. The Client shall supply UES with sufficient and adequate information, including, but not limited to, maps, site plans, reports, surveys, plans and specifications, and designs, to allow UES to properly complete the specified services. The Client shall also communicate changes in the nature and scope of the project as soon as possible during performance of the work so that the changes can be incorporated into the work product. **1.3** The Client acknowledges that UES's responsibilities in providing the services described under the Scope of Services section is limited to those services described therein, and the Client hereby assumes any collateral or affiliated duties necessitated by or for those services. Such duties may include, but are not limited to, reporting requirements imposed by any third party such as federal, state, or local entities, the provision of any required notices to any third party, or the securing of necessary permits or permissions from any third parties required for UES's provision of the services so described, unless otherwise agreed upon by both parties in writing.

SECTION 2: STANDARD OF CARE **2.1** Services performed by UES under this Agreement will be conducted in a manner consistent with the level of care and skill ordinarily exercised by members of UES's profession practicing contemporaneously under similar conditions in the locality of the project. No other warranty, express or implied, is made. **2.2** Execution of this document by UES is not a representation that UES has visited the site, become generally familiar with local conditions under which the work is to be performed, or correlated personal observations with the requirements of the Scope of Services. It is the Client's responsibility to provide UES with all information necessary for UES to provide the services described under the Scope of Services, and the Client assumes all liability for information not provided to UES that may affect the quality or sufficiency of the services so described.

SECTION 3: SITE ACCESS AND SITE CONDITIONS **3.1** Client will grant or obtain free access to the site for all equipment and personnel necessary for UES to perform the work set forth in this Agreement. The Client will notify any possessors of the project site that Client has granted UES free access to the site. UES will take reasonable precautions to minimize damage to the site, but it is understood by Client that, in the normal course of work, some damage may occur, and the correction of such damage is not part of this Agreement unless so specified in the Scope of Services. **3.2** The Client is responsible for the accuracy of locations for all subterranean structures and utilities. UES will take reasonable precautions to avoid known subterranean structures, and the Client waives any claim against UES, and agrees to defend, indemnify, and hold UES harmless from any claim or liability for injury or loss, including costs of defense, arising from damage done to subterranean structures and utilities not identified or accurately located. In addition, Client agrees to compensate UES for any time spent or expenses incurred by UES in defense of any such claim with compensation to be based upon UES's prevailing fee schedule and expense reimbursement policy.

SECTION 4: BILLING AND PAYMENT **4.1** UES will submit invoices to Client monthly or upon completion of services. Invoices will show charges for different personnel and expense classifications. **4.2** Payment is due 30 days after presentation of invoice and is past due 31 days from invoice date. Client agrees to pay a finance charge of one and one-half percent (1 ½ %) per month, or the maximum rate allowed by law, on past due accounts. **4.3** If UES incurs any expenses to collect overdue billings on invoices, the sums paid by UES for reasonable attorneys' fees, court costs, UES's time, UES's expenses, and interest will be due and owing by the Client.

SECTION 5: OWNERSHIP AND USE OF DOCUMENTS **5.1** All reports, boring logs, field data, field notes, laboratory test data, calculations, estimates, and other documents prepared by UES, as instruments of service, shall remain the property of UES. Neither Client nor any other entity shall change or modify UES's instruments of service. **5.2** Client agrees that all reports and other work furnished to the Client or his agents, which are not paid for, will be returned upon demand and will not be used by the Client for any purpose. **5.3** UES will retain all pertinent records relating to the services performed for a period of five years following submission of the report or completion of the Scope of Services, during which period the records will be made available to the Client in a reasonable time and manner. **5.4** All reports, boring logs, field data, field notes, laboratory test data, calculations, estimates, and other documents prepared by UES, are prepared for the sole and exclusive use of Client, and may not be given to any other entity, or used or relied upon by any other entity, without the express written consent of UES. Client is the only entity to which UES owes any duty or duties, in contract or tort, pursuant to or under this Agreement.

SECTION 6: DISCOVERY OF UNANTICIPATED HAZARDOUS MATERIALS **6.1** Client represents that a reasonable effort has been made to inform UES of known or suspected hazardous materials on or near the project site. **6.2** Under this agreement, the term hazardous materials include hazardous materials, hazardous wastes, hazardous substances (40 CFR 261.31, 261.32, 261.33), petroleum products, polychlorinated biphenyls, asbestos, and any other material defined by the U.S. EPA as a hazardous material. **6.3** Hazardous materials may exist at a site where there is no reason to believe they are present. The discovery of unanticipated hazardous materials constitutes a changed condition mandating a renegotiation of the scope of work. The discovery of unanticipated hazardous materials may make it necessary for UES to take immediate measures to protect health and safety. Client agrees to compensate UES for any equipment decontamination or other costs incident to the discovery of unanticipated hazardous materials. **6.4** UES will notify Client when unanticipated hazardous materials or suspected hazardous materials are encountered. Client will make any disclosures required by law to the appropriate governing agencies. Client will hold UES harmless for all consequences of disclosures made by UES which are required by governing law. In the event the project site is not owned by Client, Client it is the Client's responsibility to inform the property owner of the discovery of unanticipated hazardous materials or suspected hazardous materials. **6.5** Notwithstanding any other provision of the Agreement, Client waives any claim against UES, and to the maximum extent permitted by law, agrees to defend, indemnify, and save UES harmless from any claim, liability, and/or defense costs for injury or loss arising from UES's discovery of unanticipated hazardous materials or suspected hazardous materials including any costs created by delay of the project and any cost associated with possible reduction of the property's value. Client will be responsible for ultimate disposal of any samples secured by UES which are found to be contaminated.

SECTION 7: RISK ALLOCATION **7.1** Client agrees that UES's liability for any damage on account of any breach of contract, error, omission, or professional negligence will be limited to a sum not to exceed \$50,000 or UES's fee, whichever is greater. If Client prefers to have higher limits on contractual or professional liability, UES agrees to increase the limits up to a maximum of \$1,000,000.00 upon Client's written request at the time of accepting UES's proposal provided that Client agrees to pay an additional consideration of four percent of the total fee, or \$400.00, whichever is greater. If Client prefers a \$2,000,000.00 limit on contractual or professional liability, UES agrees to increase the limits up to a maximum of \$2,000,000.00 upon Client's written request at the time of accepting UES's proposal provided that Client agrees to pay an additional consideration of four percent of the total fee, or \$800.00, whichever is greater. The additional charge for the higher liability limits is because of the greater risk assumed and is not strictly a charge for additional professional liability insurance. **7.2** Client shall not be liable to UES and UES shall not be liable to Client for any incidental, special, or consequential damages (including lost profits, loss of use, and lost savings) incurred by either party due to the fault of the other, regardless of the nature of the fault, or whether it was committed by Client or UES, their employees, agents, or subcontractors; or whether such liability arises in breach of contract or warranty, tort (including negligence), statutory, or any other cause of action. **7.3** As used in this Agreement, the terms "claim" or "claims" mean any claim in contract, tort, or statute alleging negligence, errors, omissions, strict liability, statutory liability, breach of contract, breach of warranty, negligent misrepresentation, or any other act giving rise to liability.

SECTION 8: INSURANCE **8.1** UES represents it and its agents, staff and consultants employed by UES, is and are protected by worker's compensation insurance and that UES has such coverage under public liability and property damage insurance policies which UES deems to be adequate. Certificates for all such policies of insurance shall be provided to Client upon request in writing. Within the limits and conditions of such insurance, UES agrees to indemnify and save Client harmless from and against loss, damage, or liability arising from negligent acts by UES, its agents, staff, and consultants employed by it. UES shall not be responsible for any loss, damage or liability beyond the amounts, limits, and conditions of such insurance or the limits described in Section 7,

whichever is less. The Client agrees to defend, indemnify, and save UES harmless for loss, damage or liability arising from acts by Client, Client's agents, staff, and others employed by Client. **8.2** Under no circumstances will UES indemnify Client from or for Client's own actions, negligence, or breaches of contract. **8.3** To the extent damages are covered by property insurance, Client and UES 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.

SECTION 9: DISPUTE RESOLUTION **9.1** All claims, disputes, and other matters in controversy between UES and Client arising out of or in any way related to this Agreement will be submitted to mediation or non-binding arbitration, before and as a condition precedent to other remedies provided by law. **9.2** If a dispute arises and that dispute is not resolved by mediation or non-binding arbitration, then: (a) the claim will be brought in the state or federal courts having jurisdiction where the UES office which provided the service is located; and (b) the prevailing party will be entitled to recovery of all reasonable costs incurred, including staff time, court costs, attorneys' fees, expert witness fees, and other claim related expenses.

SECTION 10: TERMINATION **10.1** This agreement may be terminated by either party upon seven (7) days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof, or in the case of a force majeure event such as terrorism, act of war, public health or other emergency. Such termination shall not be effective if such substantial failure or force majeure has been remedied before expiration of the period specified in the written notice. In the event of termination, UES shall be paid for services performed to the termination notice date plus reasonable termination expenses.

10.2 In the event of termination, or suspension for more than three (3) months, prior to completion of all reports contemplated by the Agreement, UES may complete such analyses and records as are necessary to complete its files and may also complete a report on the services performed to the date of notice of termination or suspension. The expense of termination or suspension shall include all direct costs of UES in completing such analyses, records, and reports.

SECTION 11: REVIEWS, INSPECTIONS, TESTING, AND OBSERVATIONS **11.1** Plan review, private provider inspections, and building inspections are performed for the purpose of observing compliance with applicable building codes. Threshold inspections are performed for the purpose of observing compliance with an approved threshold inspection plan. Construction materials testing ("CMT") is performed to document compliance of certain materials or components with applicable testing standards. UES's performance of plan reviews, private provider inspections, building inspections, threshold inspections, or CMT, or UES's presence on the site of Client's project while performing any of the foregoing activities, is not a representation or warranty by UES that Client's project is free of errors in either design or construction. **11.2** If UES is retained to provide construction monitoring or observation, UES will report to Client any observed work which, in UES's opinion, does not conform to the plans and specifications provided to UES. UES shall have no authority to reject or terminate the work of any agent or contractor of Client. No action, statements, or communications of UES, or UES's site representative, can be construed as modifying any agreement between Client and others. UES's performance of construction monitoring or observation is not a representation or warranty by UES that Client's project is free of errors in either design or construction. **11.3** Neither the activities of UES pursuant to this Agreement, nor the presence of UES or its employees, representatives, or subcontractors on the project site, shall be construed to impose upon UES any responsibility for means or methods of work performance, superintendence, sequencing of construction, or safety conditions at the project site. Client acknowledges that Client or its contractor is solely responsible for project jobsite safety. **11.4** Client is responsible for scheduling all inspections and CMT activities of UES. All testing and inspection services will be performed on a will-call basis. UES will not be responsible for tests and inspections that are not performed due to Client's failure to schedule UES's services on the project, or for any claims or damages arising from tests and inspections that are not scheduled or performed.

SECTION 12: ENVIRONMENTAL ASSESSMENTS Client acknowledges that an Environmental Site Assessment ("ESA") is conducted solely to permit UES to render a professional opinion about the likelihood or extent of regulated contaminants being present on, in, or beneath the site in question at the time services were conducted. No matter how thorough an ESA study may be, findings derived from the study are limited and UES cannot know or state for a fact that a site is unaffected by reportable quantities of regulated contaminants as a result of conducting the ESA study. Even if UES states that reportable quantities of regulated contaminants are not present, Client still bears the risk that such contaminants may be present or may migrate to the site after the ESA study is complete.

SECTION 13: SUBSURFACE EXPLORATIONS **13.1** Client acknowledges that subsurface conditions may vary from those observed at locations where borings, surveys, samples, or other explorations are made, and that site conditions may change with time. Data, interpretations, and recommendations by UES will be based solely on information available to UES at the time of service. UES is responsible for those data, interpretations, and recommendations, but will not be responsible for other parties' interpretations or use of the information developed or provided by UES. **13.2** Subsurface explorations may result in unavoidable cross-contamination of certain subsurface areas, as when a probe or boring device moves through a contaminated zone and links it to an aquifer, underground stream, or other hydrous body not previously contaminated. UES is unable to eliminate totally cross-contamination risk despite use of due care. Since subsurface explorations may be an essential element of UES's services indicated herein, Client shall, to the fullest extent permitted by law, waive any claim against UES, and indemnify, defend, and hold UES harmless from any claim or liability for injury or loss arising from cross-contamination allegedly caused by UES's subsurface explorations. In addition, Client agrees to compensate UES for any time spent or expenses incurred by UES in defense of any such claim with compensation to be based upon UES's prevailing fee schedule and expense reimbursement policy.

SECTION 14: SOLICITATION OF EMPLOYEES Client agrees not to hire UES's employees except through UES. In the event Client hires a UES employee within one year following any project through which Client had contact with said employee, Client shall pay UES an amount equal to one-half of the employee's annualized salary, as liquidated damages, without UES waiving other remedies it may have.

SECTION 15: ASSIGNS Neither Client nor UES may delegate, assign, sublet, or transfer its duties or interest in this Agreement without the written consent of the other party.

SECTION 16: GOVERNING LAW AND SURVIVAL **16.1** This Agreement shall be governed by and construed in accordance with the laws of the jurisdiction in which the UES office performing the services hereunder is located. **16.2** In any of the provisions of this Agreement are held illegal, invalid, or unenforceable, the enforceability of the remaining provisions will not be impaired and will survive. Limitations of liability and indemnities will survive termination of this agreement for any cause.

SECTION 17: INTEGRATION CLAUSE **17.1** This Agreement represents and contains the entire and only agreement and understanding among the parties with respect to the subject matter of this Agreement, and supersedes any and all prior and contemporaneous oral and written agreements, understandings, representations, inducements, promises, warranties, and conditions among the parties. No agreement, understanding, representation, inducement, promise, warranty, or condition of any kind with respect to the subject matter of this Agreement shall be relied upon by the parties unless expressly incorporated herein. **17.2** This Agreement may not be amended or modified except by an agreement in writing signed by the party against whom the enforcement of any modification or amendment is sought.

SECTION 18: WAIVER OF JURY TRIAL Both Client and UES waive trial by jury in any action arising out of or related to this Agreement.

SECTION 19: INDIVIDUAL LIABILITY PURSUANT TO FLORIDA STAT. 558.0035, AN INDIVIDUAL EMPLOYEE OR AGENT OF UES MAY NOT BE HELD INDIVIDUALLY LIABLE FOR NEGLIGENCE.