

AGREEMENT

Between

City of Fort Lauderdale

and

R.J. Behar & Company, Inc.

for

CONSULTANT SERVICES

for

Construction Engineering and Inspection Services for SE 15th Avenue
Bridge Replacement Project

AGREEMENT

THIS IS AN AGREEMENT made and entered into this ___ day of _____ 200_, by and between:

CITY OF FORT LAUDERDALE, a municipal Corporation of the State of Florida, (hereinafter referred to as "CITY")

and

R.J. Behar & Company, Inc., a Florida Corporation (hereinafter referred to as "CONSULTANT").

WHEREAS, the City Commission of the City of Fort Lauderdale, Florida at its meeting of _____, 20__ authorized by motion the execution this Agreement between CONSULTANT and CITY authorizing the performance of services in connection with RFQ #226-10872, Project Number P-10737 Construction Engineering and Inspection Services for SE 15th Ave. Bridge Replacement Project; and

WHEREAS, the CONSULTANT is willing and able to render professional services for such project for the compensation and on the terms hereinafter set forth; and

NOW, THEREFORE, in consideration of the mutual covenants, agreements, terms, and conditions contained herein, the parties hereto, do agree as follows:

ARTICLE 1 DEFINITIONS AND IDENTIFICATIONS

For the purposes of this Agreement and the various covenants, conditions, terms and provisions which follow, the DEFINITIONS and IDENTIFICATIONS set forth below are assumed to be true and correct and are therefore agreed upon by the parties.

- 1.1 **ADDITIONAL SERVICES:** Services performed by the CONSULTANT authorized by Task Order and supplemental to the Basic Services described in this Agreement and listed in Exhibit "A."
- 1.2 **AGREEMENT:** Means this document between the CITY and CONSULTANT dated _____, 20__ and any duly authorized and executed Amendments to Agreement.
- 1.3 **BASIC SERVICES:** Services performed by the CONSULTANT for authorized scope of work for the Project phase described in this Agreement and listed in Exhibit "A," Scope of Services.
- 1.4 **CERTIFICATE FOR PAYMENT:** A statement by CONSULTANT based on observations at the site and on review of documentation submitted by the Contractor that by its issuance recommends that CITY pay identified amounts to the Contractor for services

performed by the Contractor at the Project.

- 1.5 CHANGE ORDER: A written order to the Contractor, addressing modifications to the Contract Documents, and establishing the basis of payment and contract time adjustment, if any, for the work affected by such modifications. The CONSULTANT may review and make recommendations to the CITY on any proposed Change Orders, for approval or other appropriate action by the CITY.
- 1.6 CITY: The City of Fort Lauderdale, a municipal corporation of the State of Florida.
- 1.7 CITY MANAGER: The City Manager of the City of Fort Lauderdale, Florida.
- 1.8 COMMISSION: The City Commission of the City of Fort Lauderdale, Florida, which is the governing body of the CITY government.
- 1.9 CONSTRUCTION COST: The total construction cost to CITY of all elements of the Project designed or specified by the CONSULTANT.
- 1.10 CONSTRUCTION COST LIMIT: A maximum construction cost limit established by the CITY defining the maximum budget amount to which the final construction documents should be designed so as not to exceed.
- 1.11 CONSTRUCTION DOCUMENTS: Those working drawings and specifications and other writings setting forth in detail and prescribing the work to be done, the materials, workmanship and other requirements for construction of the entire Project, including any bidding information.
- 1.12 CONSULTANT: R.J. Behar & Company, Inc., the CONSULTANT selected to perform professional services pursuant to this Agreement.
- 1.13 CONTRACT ADMINISTRATOR: The Public Works Director of the City of Fort Lauderdale, or his designee. In the administration of this Agreement, as contrasted with matters of policy, all parties may rely upon instructions or determinations made by the Contract Administrator.
- 1.14 CONTRACTOR: One or more individuals, firms, corporations or other entities identified as such by a written agreement with CITY ("Contract for Construction") to perform the construction services required to complete the Project.
- 1.15 ERROR: A mistake in design, plans and/or specifications that incorporates into those documents an element that is incorrect and is deficient from the standard of care that a professional engineer in similar circumstances, working on a similar project and location would have exercised. Also includes mistakes in design, plans, specifications and/or shop drawings review that lead to materials and/or equipment being ordered and/or delivered where additional costs are incurred.
- 1.16 FINAL STATEMENT OF PROBABLE CONSTRUCTION COSTS: A final cost estimate prepared by CONSULTANT during the Final Design Phase of the Project, based upon the final detailed Construction Documents of the Project.
- 1.17 NOTICE TO PROCEED: A written Notice to Proceed with the Project issued by the

Contract Administrator.

- 1.18 OMISSION: A scope of work missed by the CONSULTANT that is necessary for the Project, including a quantity miscalculation, which was later discovered and added by Change Order and which is deficient from the standard of care that a professional engineer in similar circumstances, working on a similar project and location would have exercised. Also includes design that was wrong, but was corrected after award to the Contractor, but before the construction process was materially affected.
- 1.19 ORIGINAL CONTRACT PRICE: The original bid and/or contract price as awarded to a Contractor based upon the CONSULTANT'S final detailed Construction Documents of the Project.
- 1.20 PLANS AND SPECIFICATIONS: The documents setting forth the final design plans and specifications of the Project, including architectural, civil, structural, mechanical, electrical, communications and security systems, materials, lighting equipment, site and landscape design, and other essentials as may be appropriate, all as approved by CITY as provided in this Agreement.
- 1.21 PRELIMINARY PLANS: The documents prepared by the CONSULTANT consisting of preliminary design drawings, renderings and other documents to fix and describe the size and character of the entire Project, and the relationship of Project components to one another and existing features.
- 1.22 PROJECT: An agreed scope of work for accomplishing a specific plan or development. This may include, but is not limited to, planning, architectural, engineering, and construction support services. The services to be provided by the CONSULTANT shall be as defined in this Agreement and further detailed in Task Orders for individual projects or combinations of projects. The Project planning, design and construction may occur in separate phases and Task Orders at the CITY's discretion.
- 1.23 RESIDENT PROJECT REPRESENTATIVE: Individuals or entities selected, employed, compensated by and directed to perform services on behalf of CITY, in monitoring the Construction Phase of the Project to completion.
- 1.24 TASK ORDER: A document setting forth a detailed scope of additional services to be performed by CONSULTANT upon authorization of the CITY. The Task Order shall be considered supplemental to the general description of basic services provided in this Agreement and Exhibit "A."
- 1.25 TIME OF COMPLETION: Time in which the entire work shall be completed for each Task Order.

ARTICLE 2
PREAMBLE

In order to establish the background, context and frame of reference for this Agreement and to generally express the objectives and intentions of the respective parties hereto, the following statements, representations and explanations shall be accepted as predicates for the undertakings and commitments included within the provisions of this Agreement which follow

and may be relied upon by the parties as essential elements of the mutual considerations upon which this Agreement is based.

- 2.1 Pursuant to Section 287.055, Florida Statutes, CITY has formed a Committee to evaluate the CONSULTANT's statement of qualifications and performance data to ensure that the CONSULTANT has met the requirements of the Consultants' Competitive Negotiation Act, as set forth in Section 287.055, Florida Statutes, and has selected CONSULTANT to perform services hereunder.

ARTICLE 3 SCOPE OF SERVICES

- 3.1 The CONSULTANT shall perform the following professional services: Construction Engineering and Inspection Services for SE 15th Ave. Bridge Replacement Project; more specifically described in Exhibit "A," Scope of Services, attached hereto and incorporated herein. CONSULTANT shall provide all services set forth in Exhibit "A" including all necessary, incidental and related activities and services required by the Scope of Services and contemplated in CONSULTANT's level of effort.
- 3.2 CITY and CONSULTANT acknowledge that the Scope of Services does not delineate every detail and minor work tasks required to be performed by CONSULTANT to complete the Project. If, during the course of the performance of the services included in this Agreement, CONSULTANT determines that work should be performed to complete the Project which is in the CONSULTANT's opinion, outside the level of effort originally anticipated, whether or not the Scope of Services identifies the work items, CONSULTANT shall notify Contract Administrator and obtain written approval by the CITY in a timely manner before proceeding with the work. If CONSULTANT proceeds with said work without notifying the Contract Administrator, said work shall be deemed to be within the original level of effort, whether or not specifically addressed in the Scope of Services. Notice to Contract Administrator does not constitute authorization or approval by CITY to perform the work. Performance of work by CONSULTANT outside the originally anticipated level of effort without prior written CITY approval is at CONSULTANT's sole risk.
- 3.3 CITY and CONSULTANT acknowledge that Basic Services described in Exhibit "A" are included in the fee agreed upon. The CITY and CONSULTANT may negotiate additional scopes of services, compensation, time of performance and other related matters for future phases of Project. If CITY and CONSULTANT cannot contractually agree, CITY shall have the right to immediately terminate negotiations at no cost to CITY and procure services for future Project phases from another source.

ARTICLE 4 GENERAL PROVISIONS

- 4.1 Negotiations pertaining to the professional services to be performed by the CONSULTANT have been undertaken between CONSULTANT and a committee of CITY representatives pursuant to Section 287.055, Florida Statutes, and this Agreement incorporates the results of such negotiation.

- 4.2 CONSULTANT shall include CITY's RFQ No. and Project Number as part of the heading on all correspondence, invoices and drawings. All correspondence shall be directed specifically to the Contract Administrator.

ARTICLE 5
TASK ORDERS FOR ADDITIONAL SERVICES

- 5.1 Task Orders for additional services shall be jointly prepared by the CITY and CONSULTANT defining the detailed scope of services to be provided for the Project. Each Task Order shall be separately numbered and approved in accordance with this Agreement and all applicable CITY code requirements. These Task Orders shall be considered supplemental to the general description of basic services as described in Exhibit "A".
- 5.2 Under all Task Orders and Projects, CITY may require the CONSULTANT, by specific written authorization, and for mutually agreed upon additional compensation, to provide or assist in obtaining one or more of the following special services. These services may include, at the discretion of the CITY, the following items:
- 5.2.1 Providing additional copies of reports, contract drawings and documents; and
- 5.2.2 Assisting CITY with litigation support services arising from the planning, development, or construction.
- 5.3 Prior to initiating the performance of any services under this Agreement, CONSULTANT must receive a written Notice to Proceed / Purchase Order from the CITY. The CONSULTANT must receive the approval of the Contract Administrator or his designee in writing prior to beginning the performance of services in any subsequent Task Order under this Agreement.
- 5.4 In the event CONSULTANT is unable to complete the services on the date or dates as provided in this Agreement, or subsequent Task Orders, because of delays resulting from the untimely review and approval by CITY and other governmental authorities having jurisdiction over the Project, CITY may grant an appropriate extension of time for completion of the work. It shall be the responsibility of the CONSULTANT to notify the CITY promptly in writing whenever a delay in approval by a governmental agency is anticipated or experienced, and to inform the CITY of all facts and details related to the delay.
- 5.5 If, in the opinion of the CITY, the CONSULTANT is improperly performing the services under a specific supplemental Task Order, or if at any time the CITY shall be of the opinion that said supplemental Task Order is being unnecessarily delayed and will not be completed within the agreed upon time, the CITY shall notify the CONSULTANT in writing. The CONSULTANT has within ten (10) working days thereafter to take such measures as will, in the judgment of the CITY, ensure satisfactory performance and completion of the work. If the CONSULTANT fails to cure within the ten (10) working days, the CITY may notify the CONSULTANT to discontinue all work under the specified

Task Order. The CONSULTANT shall immediately respect said notice and stop said work and cease to have any rights in the possession of the work and shall forfeit the Task Order and any remaining monies. The CITY may then decide, after City Commission approval, to issue a new supplemental Task Order for the uncompleted work to another consultant using the remaining funds. Any excess costs arising therefrom over and above the original supplemental Task Order price shall be charged against CONSULTANT, as the original CONSULTANT.

ARTICLE 6
TERM OF AGREEMENT; TIME FOR PERFORMANCE

- 6.1 CONSULTANT shall perform the basic services described in Exhibit "A" within the time periods specified in a mutually agreed upon Project schedule, developed before commencement of work and made a part of this Agreement. The Project schedule, once complete, shall be automatically incorporated into this Agreement; said time periods shall commence from the date of the Notice to Proceed for such services.
- 6.2 Prior to beginning the performance of any services under this Agreement, CONSULTANT must receive a Notice to Proceed and a purchase order. CONSULTANT must receive written approval from the Contract Administrator prior to beginning the performance of services in any subsequent phases of the Agreement. Prior to granting approval for CONSULTANT to proceed to a subsequent phase, the Contract Administrator may, at his or her sole option, require CONSULTANT to submit itemized deliverables for the Contract Administrator's review.
- 6.3 In the event CONSULTANT is unable to complete the above services because of delays resulting from untimely review by CITY or other governmental authorities having jurisdiction over the Project, and such delays are not the fault of CONSULTANT, or because of delays which were caused by factors outside the control of CONSULTANT, CITY shall grant a reasonable extension of time for completion of the services and shall provide reasonable compensation, if appropriate. It shall be the responsibility of the CONSULTANT to notify CITY promptly in writing whenever a delay in approval by a governmental agency is anticipated or experienced, and to inform CITY of all facts and details related to the delay.
- 6.4 The time for the performance of services described in Exhibit "A," Scope of Services and supplemental Task Orders shall be negotiated by the CITY and the CONSULTANT as the services are requested and authorized by the CITY.
- 6.5 The Term of this Agreement shall be limited to the time required to complete the Basic Services of the Project and any additional Project related Task Orders for additional services.

ARTICLE 7
COMPENSATION AND METHOD OF PAYMENT

7.1 AMOUNT AND METHOD OF COMPENSATION

7.1.1 Not to Exceed Amount Compensation

CITY agrees to pay CONSULTANT as compensation for performance of all services as related to Exhibit "A" required under the terms of this Agreement Salary Costs as described in Exhibit "B" up to a Not to Exceed Amount of \$527,189.50, and to reimburse CONSULTANT for Reimbursables as described in Section 7.2, up to a Not to Exceed Amount of \$7,000.00, for a total Not to Exceed Amount of \$534,189.50. It is understood that the method of compensation is that of "Not to Exceed Amount" which means that CONSULTANT shall perform all services set forth in Exhibit "A" for total compensation in the amount of or less than that stated above. The total hourly rates payable by CITY for each of CONSULTANT's employee categories are shown on Exhibit "B."

7.2 REIMBURSABLES

7.2.1 Direct non-salary expenses, entitled Reimbursables, directly attributable to the Project will be charged at actual cost, in the total Not-to-Exceed amount of \$7,000.00. Reimbursable expenses are in addition to the compensation for basic services and include actual expenditures made by the CONSULTANT and the CONSULTANT employees directly attributable to the Project and will be charged at actual cost, without reference to the professional service fees above. CITY shall not withhold retainage from payments for Reimbursable Expenses. CONSULTANT shall be compensated for Reimbursables associated with a particular Task Order only up to the amount allocated for such Task Order. Any reimbursable or portion thereof which, when added to the Reimbursables related to a particular Task Order previously billed, exceeds the amount allocated for such Task Order shall be the responsibility of the CONSULTANT unless otherwise agreed to in writing by the Contract Administrator. Reimbursables shall include only the following listed expenses unless authorized in writing by the Contract Administrator:

- a) Extra travel and subsistence for the CONSULTANT and his staff beyond the Tri-County area (Broward, Dade and Palm Beach Counties), when authorized in advance by the CITY. CONSULTANT will make all reasonable efforts to obtain discounted rates to the extent available. Travel related expenses shall be consistent with City of Fort Lauderdale Travel Policy and may include: air fare, hotels, meals, baggage handling, rental car, tolls, parking, airport van/taxi, fuel and other similar expenses. Expenses shall be limited to reasonable amounts as determined by the City Travel Policy, and requires prior approval of Contract Administrator or his designee before expenditures are made. Identifiable per diem, meals and lodgings, taxi fares and miscellaneous travel-connected expenses for CONSULTANT personnel are subject to the limitations of Section 112.061 Florida Statutes. Meals for Class C travel inside Broward County will not be reimbursed. Meals and lodging expenses will not be reimbursed for temporarily relocating CONSULTANT employees from one of CONSULTANT offices to another office if the employee is relocated for more than ten (10) consecutive working days.
- b) Identifiable communication expenses approved by Contract Administrator, long distance telephone, courier and express mail between the CONSULTANT various permanent offices. The CONSULTANT field office at the Project site is

not considered a permanent office.

- c) Cost of reproduction, postage and handling of drawings and specifications which are required to deliver services set forth in this Agreement, excluding reproductions for the office use of the CONSULTANT. Reimbursable printing and photocopying expenses shall include only those prints or photocopies of original documents which are (i) exchanged among CONSULTANT, CITY and other third parties retained or employed by any of them or (ii) submitted to CITY for review, approval or further distribution. Documents, which are reproduced for CONSULTANT internal drafts, reviews, or other purposes, are not eligible for reimbursement.
- d) Identifiable testing costs approved by Contract Administrator.
- e) All permit fees paid to regulatory agencies for approvals directly attributable to the Project. These permit fees do not include those permits required for the construction Contractor.
- f) Overnight Delivery/Courier Charges (when CITY requires/requests this service).

7.2.2 It is acknowledged and agreed to by CONSULTANT that the dollar limitation set forth in Section 7.2.1 is a limitation upon, and describes the maximum extent of CITY's obligation to reimburse CONSULTANT for direct, nonsalary expenses, but does not constitute a limitation, of any sort, upon CONSULTANT'S obligation to incur such expenses in the performance of services hereunder. If CITY or Contract Administrator requests CONSULTANT to incur expenses not contemplated in the amount for Reimbursables, CONSULTANT shall notify Contract Administrator in writing before incurring such expenses. Any such expenses shall be reviewed and approved by CITY prior to incurring such.

7.3 METHOD OF BILLING

7.3.1 Not To Exceed Amount Compensation

CONSULTANT shall submit billings, which are identified by the specific project number on a monthly basis in a timely manner for all salary costs and Reimbursables attributable to the Project. These billings shall identify the nature of the work performed, the total hours of work performed and the employee category of the individuals performing same. Billings shall itemize and summarize Reimbursables by category and identify same as to the personnel incurring the expense and the nature of the work with which such expense was associated. Where prior written approval by Contract Administrator is required for Reimbursables, a copy of said approval shall accompany the billing for such Reimbursables. The statement shall show a summary of salary costs and Reimbursables with accrual of the total and credits for portions paid previously. External Reimbursables and subconsultant fees must be documented by copies of invoices or receipts, which describe the nature of the expenses and contain a project number or other identifier, which clearly indicates the expense, as identifiable to the Project. Except for meals and travel expenses, it shall be

deemed unacceptable for the CONSULTANT to modify the invoice or receipt by adding a project number or other identifier. Internal expenses must be documented by appropriate CONSULTANT's cost accounting forms with a summary of charges by category. When requested, CONSULTANT shall provide backup for past and current invoices that records hours and salary costs by employee category, Reimbursables by category, and subconsultant fees on a task basis, so that total hours and costs by task may be determined.

7.4 METHOD OF PAYMENT

- 7.4.1 CITY shall pay CONSULTANT in accordance with the Florida Prompt Payment Act. To be deemed proper, all invoices must comply with the requirements set forth in this Agreement and must be submitted on the form and pursuant to instructions prescribed by Contract Administrator.
- 7.4.2 CITY will review CONSULTANT's invoices and, if inaccuracies or errors are discovered in said invoice, CITY will inform CONSULTANT within ten (10) working days by fax and/or by email of such inaccuracies or errors and request that revised copies of all such documents be re-submitted by CONSULTANT to CITY.
- 7.4.3 Upon mutual agreement by both CITY and CONSULTANT, payment shall be made by CITY to CONSULTANT using a CITY P-Card. If payment is not made using a CITY P-Card, payment will be made to CONSULTANT at the following address:

R.J. Behar & Company, Inc.
6861 S.W. 196th Ave, Suite 302
Pembroke Pines, FL. 33332

ARTICLE 8 AMENDMENTS AND CHANGES IN SCOPE OF SERVICES

- 8.1 No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written Amendment prepared with the same formality as this Agreement and executed by the CITY and CONSULTANT.
- 8.2 CITY or CONSULTANT may request changes that would increase, decrease, or otherwise modify the Scope of Services to be provided under a Task Order. Such changes must be contained in a written amendment, executed by the parties hereto, with the same formality and of equal dignity herewith, prior to any deviation from the terms of the Task Order including the initiation of any additional services. CITY shall compensate CONSULTANT for such additional services as provided in Article 7.
- 8.3 In the event a dispute between the Contract Administrator and CONSULTANT arises over whether requested services constitute additional services and such dispute cannot be resolved by the Contract Administrator and CONSULTANT, such dispute shall be promptly presented to the City Manager for resolution. The City Manager's decision shall be final and binding on the parties for amounts in the aggregate under \$100,000 per project. In the event of a dispute in an amount over \$100,000, the parties agree to

use their best efforts to settle such dispute. To this effect, they shall consult and negotiate with each other, in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties. If they do not reach such solution within a period of sixty (60) days, then upon notice to the other, either party may commence litigation to resolve the dispute in Broward County, Florida. Any resolution in favor of CONSULTANT shall be set forth in a written document in accordance with Section 8.2 above. During the pendency of any dispute, CONSULTANT shall promptly perform the disputed services.

ARTICLE 9 CONSULTANT'S RESPONSIBILITIES

- 9.1 The CONSULTANT, following the CITY's approval of the Construction Documents and of the Final Statement of Probable Construction Costs, shall, when so directed and authorized by the CITY, assist the CITY in obtaining bids or negotiated proposals and assist in awarding and preparing contracts for construction. If requested, the CONSULTANT shall review and analyze the proposals received by the CITY, and shall make a recommendation for any award based on CITY's Purchasing Ordinance.
- 9.2 Should the lowest responsible, responsive proposal exceed the Final Statement of Probable Construction Costs by less than 10%, CONSULTANT, at no additional cost to the CITY, shall meet with the CITY's representatives and work to reduce costs to bring the Original Contract Price within the Final Statement of Probable Construction Costs. Should the lowest responsible, responsive proposal exceed the Final Statement of Probable Construction Costs by 10% or more, CONSULTANT shall, at the CITY's direction, redesign each Project and/or work with the CITY to reduce the costs to within the Final Statement of Probable Construction Costs at no additional expense to the CITY. If negotiations between the CITY and the CONSULTANT have not commenced within three months after completion of the final design phase, or if industry-wide prices are changed because of unusual or unanticipated events affecting the general level of prices or times of delivery in the construction industry, the established Construction Cost Limit may be adjusted in accordance with the applicable change in the Construction Cost Index for Twenty Cities from the date of completion of the final design phase and the date on which proposals are sought, as published monthly in "Engineering News Record". If each Project scope and design is expanded by the CITY after the CONSULTANT renders the estimated Construction Cost of the Plans and Specifications, the CONSULTANT shall not be responsible for any redesign without compensation.
- 9.3 The CONSULTANT shall provide the CITY with a list of recommended, prospective proposers.
- 9.4 The CONSULTANT shall attend all pre-proposal conferences.
- 9.5 The CONSULTANT shall recommend any addenda, through the Contract Administrator, as appropriate to clarify, correct, or change proposal documents.
- 9.6 If pre-qualification of proposers is required as set forth in the request for proposal, CONSULTANT shall assist the CITY, if requested, in developing qualification criteria, review qualifications and recommend acceptance or rejection of the proposers. If requested, CONSULTANT shall evaluate proposals and proposers, and make

recommendations regarding any award by the CITY.

- 9.7 The CITY shall make decisions on all claims regarding interpretation of the Construction Documents, and on all other matters relating to the execution and progress of the work after receiving a recommendation from the CONSULTANT. The CONSULTANT shall check and approve samples, schedules, shop drawings and other submissions for conformance with the concept of each Project, and for compliance with the information given by the Construction Documents. The CONSULTANT may also prepare Change Orders, assemble written guarantees required of the Contractor, and approve progress payments to the Contractor based on each Project Schedule of Values and the percentage of work completed.
- 9.8 The CITY shall maintain a record of all Change Orders which shall be categorized according to the various types, causes, etc. that it may be determined are useful or necessary for its purpose. Among those shall be Change Orders identified as architectural/engineering Errors or Omissions.
- 9.8.1 Unless otherwise agreed by both parties in writing, it is specifically agreed that any change to the work identified as an Error on the part of the CONSULTANT shall be considered for purposes of this Agreement to be an additional cost to the CITY which would not be incurred without the Error.
- 9.8.2 Unless otherwise agreed by both parties in writing, it is further specifically agreed for purposes of this Agreement that fifteen percent (15%) of the cost of Change Orders for any item categorized as an Omission shall be considered an additional cost to the CITY which would not be incurred without the Omission. So long as the total of those two numbers (Change Order costs of Errors plus fifteen percent (15%) of Omissions) remains less than two percent (2%) of the total Construction Cost of the Project, the CITY shall not look to the CONSULTANT for reimbursement for Errors and Omissions.
- 9.8.3 Should the sum of the two as defined above (cost of Errors plus fifteen percent (15%) of the cost of Omissions) exceed two percent (2%) of the Construction Cost, the CITY shall recover the full and total additional cost to the CITY as a result of CONSULTANT's Errors and Omissions from the CONSULTANT, that being defined as the cost of Errors plus fifteen percent (15%) of the cost of Omissions above two percent (2%) of the Construction Cost.
- 9.8.4 To obtain such recovery, the CITY shall deduct from the CONSULTANT's fee a sufficient amount to recover all such additional cost to the CITY.
- 9.8.5 In executing this Agreement, the CONSULTANT acknowledges acceptance of these calculations and to the CITY's right to recover same as stated above. The recovery of additional costs to the CITY under this paragraph shall not limit or preclude recovery for other separate and/or additional damages which the CITY may otherwise incur.
- 9.8.6 The Contract Administrator's decision as to whether a Change Order is caused by an Error or caused by an Omission, taking into consideration industry standards, shall be final and binding on both parties for amounts in the aggregate under \$100,000 per project. In the event of a dispute in an amount over

\$100,000, the parties agree to use their best efforts to settle such dispute. To this effect, they shall consult and negotiate with each other, in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties. If they do not reach such solution within a period of sixty (60) days, then upon notice to the other, either party may commence litigation to resolve the dispute in Broward County, Florida.

ARTICLE 10
CITY'S RESPONSIBILITIES

- 10.1 CITY shall assist CONSULTANT by placing at CONSULTANT's disposal all information CITY has available pertinent to the Project including previous reports and any other data relative to design or construction of the Project.
- 10.2 CITY shall arrange for access to, and make all provisions for, CONSULTANT to enter upon public and private property as required for CONSULTANT to perform its services.
- 10.3 CITY shall review the itemized deliverables/documents identified in Exhibit "A", Scope of Services.
- 10.4 CITY shall give prompt written notice to CONSULTANT whenever CITY observes or otherwise becomes aware of any development that affects the scope or timing of CONSULTANT's services or any defect in the work of the Contractor.

ARTICLE 11
MISCELLANEOUS

11.1 OWNERSHIP OF DOCUMENTS

All documents including, but not limited to, drawings, renderings, models, and specifications prepared or furnished by CONSULTANT, its dependent professional associates and consultants, pursuant to this Agreement shall be owned by the CITY.

Drawings, specifications, designs, models, photographs, reports, surveys and other data prepared in connection with this Agreement are and shall remain the property of the CITY whether the Project for which they are made is executed or not, and are subject to reuse by the CITY in accordance with Section 287.055(10) of the Florida Statutes. They are not intended or represented to be suitable for reuse by the CITY or others on extensions of this Project or on any other project without appropriate verification or adaptation. This does not, however, relieve the CONSULTANT of liability or legal exposure for errors, omissions, or negligent acts made on the part of the CONSULTANT in connection with the proper use of documents prepared under this Agreement. Any such verification or adaptation may entitle the CONSULTANT to further compensation at rates to be agreed upon by the CITY and the CONSULTANT. This shall not limit the CITY's reuse of preliminary or developmental plans or ideas incorporated therein, should the Project be suspended or terminated prior to completion.

11.2 TERMINATION

11.2.1 It is expressly understood and agreed that the CITY may terminate this Agreement at any time by giving the CONSULTANT notice by telephone, or

personally to one of the officers of the CONSULTANT, confirmed by certified mail, return receipt requested, to the principal office of the CONSULTANT. In the event that the Agreement is terminated, the CONSULTANT shall be entitled to be compensated for the services rendered from the date of execution of the Agreement up to the time of termination. Such compensation shall be based on the fee as set forth above, wherever possible. For those portions of services rendered to which the applicable fee cannot be applied, payment shall be based upon the appropriate rates for the actual time spent on the project. In the event that the CONSULTANT abandons this Agreement or through violation of any of the terms and conditions of this Agreement, causes it to be terminated, CONSULTANT shall indemnify the CITY against any loss pertaining to this termination. All finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by CONSULTANT shall become the property of CITY and shall be delivered by CONSULTANT to the CITY within five (5) days of CITY's request. Upon payment of such sum by CITY to CONSULTANT, CITY shall have no further duties or obligations pursuant to or arising from this Agreement. CONSULTANT shall have the right to terminate this Agreement upon the substantial breach by the CITY of its obligations under this Agreement such as unreasonable delay in payment or non-payment of undisputed amounts.

11.2.2 This Agreement may also be terminated by CITY upon such notice as CITY deems appropriate in the event CITY or Contract Administrator determines that termination is necessary to protect the public health, safety, or welfare.

11.2.3 Notice of termination shall be provided in accordance with Section 11.26, NOTICES, except that Contract Administrator may provide a prior verbal stop work order if the Contract Administrator deems a stop work order of this Agreement in whole or in part is necessary to protect the public's health, safety, or welfare. A verbal stop work order shall be promptly confirmed in writing as set forth in Section 11.26, NOTICES.

11.2.4 In the event this Agreement is terminated for convenience, CONSULTANT shall be paid for any services performed to the date the Agreement is terminated. Compensation shall be withheld until all documents specified in Section 11.3 of this Agreement are provided to the CITY. Upon being notified of CITY's election to terminate, CONSULTANT shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. Under no circumstances shall CITY make payment for services which have not been performed.

11.3 AUDIT RIGHT AND RETENTION OF RECORDS

CITY shall have the right to audit the books, records, and accounts of CONSULTANT that are related to this Project. CONSULTANT shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to the Project.

CONSULTANT shall preserve and make available, at reasonable times for examination and audit by CITY all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the

Florida Public Records Act (Chapter 119, Florida Statutes), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum of three (3) years after termination of this Agreement. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by CITY to be applicable to CONSULTANT's records, CONSULTANT shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by CONSULTANT. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for CITY's disallowance and recovery of any payment upon such entry.

11.4 NON DISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY, AND AMERICANS WITH DISABILITIES ACT

CONSULTANT shall not unlawfully discriminate against any person in its operations and activities in its use or expenditure of the funds or any portion of the funds provided by this Agreement and shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any services funded in whole or in part by CITY, including Titles I and II of the ADA (regarding nondiscrimination or the basis of disability), and all applicable regulations, guidelines, and standards.

CONSULTANT's decisions regarding the delivery of services under this Agreement shall be made without regard to or consideration of race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation, or any other factor which cannot be lawfully or appropriately used as a basis for service delivery.

CONSULTANT shall comply with Title I of the Americans with Disabilities Act regarding nondiscrimination on the basis of disability in employment and further shall not discriminate against any employee or applicant for employment because of race, age, religion, color, gender, sexual orientation, national origin, marital status, political affiliation, or physical or mental disability. In addition, CONSULTANT shall take affirmative steps to ensure nondiscrimination in employment against disabled persons. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay, other forms of compensation, terms and conditions of employment, training (including apprenticeship), and accessibility.

CONSULTANT shall take affirmative action to ensure that applicants are employed and employees are treated without regard to race, age, religion, color, gender, sexual orientation, national origin, marital status, political affiliation, or physical or mental disability during employment. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay, other forms of compensation, terms and conditions of employment, training (including apprenticeship), and accessibility.

11.5 MINORITY PARTICIPATION

Historically, the CITY has been able to achieve participation levels of approximately twelve percent (12%) by MBE/WBE firms in CITY projects, and in the purchase of goods

and services. The CONSULTANT shall make a good faith effort to help the CITY maintain and encourage MBE/WBE participation levels consistent with such historical levels and market conditions. The CONSULTANT will be required to document all such efforts and supply the CITY with this documentation at the end of the Project, or in cases where projects are longer than one year, each CITY fiscal year.

11.6 PUBLIC ENTITY CRIMES ACT

CONSULTANT represents that the execution of this Agreement will not violate the Public Entity Crimes Act (Section 287.133, Florida Statutes), which essentially provides that a person or affiliate who is a contractor, consultant or other provider and who has been placed on the convicted vendor list following a conviction for a “public entity crime”, as defined by Section 287.133, Florida Statutes, may not submit a bid on a contract to provide any goods or services to CITY, may not submit a bid on a contract with CITY for the construction or repair of a public building or public work, may not submit bids on leases of real property to CITY, may not be awarded or perform work as a contractor, supplier, subconsultant, or consultant under a contract with CITY, and may not transact any business with CITY in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of 36 months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid hereto, and may result in debarment from CITY’s competitive procurement activities.

In addition to the foregoing, CONSULTANT further represents that there has been no determination, based on an audit, that it committed an act defined by Section 287.133, Florida Statutes, as a “public entity crime” and that it has not been formally charged with committing an act defined as a “public entity crime” regardless of the amount of money involved or whether CONSULTANT has been placed on the convicted vendor list.

11.7 SUBCONSULTANTS

11.7.1 CONSULTANT may subcontract certain items of work to subconsultant. The parties expressly agree that the CONSULTANT shall submit pertinent information regarding the proposed subconsultant, including subconsultant’s scope of work and fees, for review and approval by the CITY prior to sub-consultants proceeding with any work.

11.7.2 CONSULTANT shall utilize the subconsultants identified in the proposal that were a material part of the selection of CONSULTANT to provide the services for this Project. CONSULTANT shall obtain written approval of Contract Administrator prior to changing or modifying the list of subconsultants submitted by CONSULTANT.

The list of subconsultants submitted is as follows:

Tierra South Florida Inc. – For Geotechnical Services

Eisman & Russo, Inc. – For Construction Engineering and Inspection Services Support

11.8 ASSIGNMENT AND PERFORMANCE

Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered without the written consent of the other party, and CONSULTANT shall not subcontract any portion of the work required by this Agreement except as authorized pursuant to Section 11.7.

CONSULTANT represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the Scope of Services and to provide and perform such services to CITY's satisfaction for the agreed compensation.

CONSULTANT shall perform its duties, obligations, and services under this Agreement in a skillful and respectable manner. The quality of CONSULTANT's performance and all interim and final product(s) provided to or on behalf of CITY shall meet or exceed all professional standards of the State of Florida.

11.9 INDEMNIFICATION OF CITY

11.9.1 CONSULTANT shall indemnify and hold harmless CITY, its officers and employees from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness or intentional wrongful conduct of CONSULTANT, and other persons employed or utilized by CONSULTANT in the performance of the duties under this Agreement. The provisions of this Section shall survive the expiration or early termination of this Agreement. To the extent considered necessary by Contract Administrator and City Attorney, any sums due to the CONSULTANT under this Agreement may be retained by CITY until all of CITY's claims for indemnification pursuant to this Agreement have been settled or otherwise resolved, and any amount withheld shall not be subject to payment of interest by CITY.

11.9.2 It is specifically understood and agreed that the consideration inuring to the CONSULTANT for the execution of this Agreement are the promises, payments, covenants, rights and responsibilities contained herein and the award of this Agreement to the CONSULTANT.

11.9.3 The execution of this Agreement by the CONSULTANT shall obligate the CONSULTANT to comply with the foregoing indemnification provision.

11.10 INSURANCE

11.10.1 CONSULTANT shall provide and shall require all of its sub-consultants and sub-contractors to provide, pay for, and maintain in force at all times during the term of the Agreement, such insurance, including Commercial General Liability Insurance, Business Automobile Liability Insurance, Workers' Compensation Insurance, Employer's Liability Insurance, and Professional Liability Insurance, as stated below. Such policy or policies shall be issued by companies authorized

to do business in the State of Florida and having agents upon whom service of process may be made in the State of Florida.

A. The City is required to be named as additional insured on the Commercial General Liability insurance policy. BINDERS ARE UNACCEPTABLE. The insurance coverage required shall include those classifications, as listed in standard liability insurance manuals, which most nearly reflect the operations of the CONSULTANT. Any exclusions or provisions in the insurance maintained by the CONSULTANT that precludes coverage for the work contemplated in this Agreement shall be deemed unacceptable, and shall be considered a breach of contract.

B. The CONSULTANT shall provide the CITY an original Certificate of Insurance for policies required by Article 11. All certificates shall state that the CITY shall be given ten (10) days notice prior to expiration or cancellation of the policy. The insurance provided shall be endorsed or amended to comply with this notice requirement. In the event that the insurer is unable to accommodate, it shall be the responsibility of the CONSULTANT to provide the proper notice. Such notification will be in writing by registered mail, return receipt requested and addressed to the Finance Department. Such policies shall: (1) name the insurance company or companies affording coverage acceptable to the CITY, (2) state the effective and expiration dates of the policies, (3) include special endorsements where necessary. Such policies provided under Article 11 shall not be affected by any other policy of insurance, which the CITY may carry in its own name.

C. CONSULTANT shall as a condition precedent of this Agreement, furnish to the City of Fort Lauderdale, c/o Project Manager, 100 N. Andrews Avenue, Fort Lauderdale, FL 33301, Certificate(s) of Insurance upon execution of this Agreement, which indicate that insurance coverage has been obtained which meets the requirements as outlined below:

11.10.2 COMMERCIAL GENERAL LIABILITY

A.	Limits of Liability:	
	Bodily Injury and Property Damage - Combined Single Limit	
	Each Occurrence	\$1,000,000
	Project Aggregate	\$1,000,000
	General Aggregate	\$2,000,000
	Personal Injury	\$1,000,000
	Products/Completed Operations	\$1,000,000

- B. Endorsements Required:
- City of Fort Lauderdale included as an Additional Insured
- Broad Form Contractual Liability
- Waiver of Subrogation
- Premises/Operations
- Products/Completed Operations
- Independent Contractors
- Owners and Contractors Protective Liability

11.10.3 BUSINESS AUTOMOBILE LIABILITY

- A. Limits of Liability:
Bodily Injury and Property Damage - Combined Single Limit
All Autos used in completing the contract
Including Hired, Borrowed or Non-Owned Autos
Any One Accident \$1,000,000
- B. Endorsements Required:
Waiver of Subrogation

11.10.4 WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY

Limits: Workers' Compensation – Per Florida Statute 440
Employers' Liability - \$500,000

Any firm performing work on behalf of the City of Fort Lauderdale must provide Workers' Compensation insurance. Exceptions and exemptions can only be made if they are in accordance with Florida Statute. For additional information contact the Department of Financial Services, Workers' Compensation Division at (850) 413-1601 or on the web at www.fldfs.com.

Consultant must be in compliance with all applicable State and Federal workers' compensation laws, including the U.S. Longshore Harbor Workers' Act or Jones Act.

11.10.5 PROFESSIONAL LIABILITY/ERRORS AND OMISSIONS COVERAGE

Each Claim	\$1,000,000
General Aggregate Limit	\$2,000,000
Deductible-	not to exceed \$100,000

- 11.10.6 All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida, with the following qualifications:

The Consultant's insurance must be provided by an A.M. Best's "A-" rated or better insurance company authorized to issue insurance policies in the State of Florida, subject to approval by the City's Risk Manager. Any exclusions or provisions in the insurance maintained by the Consultant that precludes coverage for work contemplated in this project shall be deemed unacceptable, and shall be considered breach of contract.

Compliance with the foregoing requirements shall not relieve the CONSULTANT of their liability and obligation under this section or under any other section of this Agreement.

The CONSULTANT shall be responsible for assuring that the insurance certificates required in conjunction with this Section remain in force for the duration of the Project. If insurance certificates are scheduled to expire during

the contractual period, the CONSULTANT shall be responsible for submitting new or renewed insurance certificates to the CITY at a minimum of thirty (30) calendar days in advance of such expiration. In the event that expired certificates are not replaced with new or renewed certificates that cover the contractual period, the CITY shall:

- A. Suspend the Agreement until such time as the new or renewed certificates are received by the CITY.
- B. The CITY may, at its sole discretion, terminate the Agreement for cause and seek damages from the CONSULTANT in conjunction with the violation of the terms and conditions of the Agreement.

11.11 REPRESENTATIVE OF CITY AND CONSULTANT

11.11.1 The parties recognize that questions in the day-to-day conduct of the Project will arise. The Contract Administrator, upon CONSULTANT's request, shall advise CONSULTANT in writing of one (1) or more CITY employees to whom all communications pertaining to the day-to-day conduct of the Project shall be addressed.

11.11.2 CONSULTANT shall inform the Contract Administrator in writing of CONSULTANT's representative to whom matters involving the conduct of the Project shall be addressed.

11.12 ALL PRIOR AGREEMENTS SUPERSEDED

This document incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein; and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements whether oral or written.

It is further agreed that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

11.13 CONSULTANT'S STAFF

CONSULTANT will provide the key staff identified in their proposal for the Project as long as said key staff are in CONSULTANT's employment.

CONSULTANT will obtain prior written approval of Contract Administrator to change key staff. CONSULTANT shall provide Contract Administrator with such information as necessary to determine the suitability of any proposed new key staff. Contract Administrator will be reasonable in evaluating key staff qualifications.

If Contract Administrator desires to request removal of any of CONSULTANT's staff, Contract Administrator shall first meet with CONSULTANT and provide reasonable

justification for said removal.

11.14 INDEPENDENT CONTRACTOR

CONSULTANT is an independent contractor under this Agreement. Services provided by CONSULTANT shall be subject to the supervision of CONSULTANT. In providing the services, CONSULTANT or its agents shall not be acting and shall not be deemed as acting as officers, employees, or agents of the CITY. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Agreement shall be those of CONSULTANT. The parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

11.15 THIRD PARTY BENEFICIARIES

Neither CONSULTANT nor CITY intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based upon this Agreement.

11.16 CONFLICTS

Neither CONSULTANT nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with CONSULTANT's loyal and conscientious exercise of judgment related to its performance under this Agreement.

CONSULTANT agrees that none of its officers or employees shall, during the term of this Agreement, serve as expert witness against CITY in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process, nor shall such persons give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of CITY or in connection with any such pending or threatened legal or administrative proceeding. The limitations of this Section shall not preclude such persons from representing themselves in any action or in any administrative or legal proceeding.

In the event CONSULTANT is permitted to utilize subconsultants to perform any services required by this Agreement, CONSULTANT agrees to prohibit such subconsultants, by written contract, from having any conflicts as within the meaning of this Section.

11.17 CONTINGENCY FEE

CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for CONSULTANT, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for CONSULTANT, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision the City Commission shall have the right to terminate this Agreement

without liability at its discretion, or to deduct from the Agreement price or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

11.18 WAIVER OF BREACH AND MATERIALITY

Failure by CITY to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement.

CITY and CONSULTANT agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof.

11.19 COMPLIANCE WITH LAWS

CONSULTANT shall comply with all federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations related to this Agreement.

11.20 SEVERANCE

In the event this Agreement or a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless CITY or CONSULTANT elects to terminate this Agreement. The election to terminate this Agreement based upon this provision shall be made within seven (7) days after the findings by the court become final.

11.21 JOINT PREPARATION

Preparation of this Agreement has been a joint effort of CITY and CONSULTANT and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than any other.

11.22 PRIORITY OF PROVISIONS

If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of this Agreement, the term, statement, requirement, or provision contained in Articles 1-11 of this Agreement shall prevail and be given effect.

11.23 APPLICABLE LAW AND VENUE

This Agreement shall be construed with and governed by the laws of the State of Florida. Venue for any lawsuit by either party against the other party or otherwise arising out of this Agreement and for any other legal proceeding shall be in Broward County, Florida, and in the event of federal jurisdiction, in the Southern District of Florida.

11.24 EXHIBITS

Each Exhibit referred to in this Agreement forms an essential part of this Agreement. The Exhibits, if not physically attached, should be treated as part of this Agreement, and

are incorporated herein by reference.

11.25 THREE ORIGINAL AGREEMENTS

This Agreement shall be executed in three (3), signed Agreements, with each one treated as an original.

11.26 NOTICES

Whenever either party desires to give notice unto the other, it must be given by written notice, sent by certified United States mail, with return receipt requested, addressed to the party for whom it is intended, at the place last specified, and the place for giving of notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving of notice, to-wit:

CITY: City Engineer
City of Fort Lauderdale
100 North Andrews Avenue
Fort Lauderdale, FL 33301
Telephone: (954) 828-5772

With a copy to: City Manager
City of Fort Lauderdale
100 North Andrews Avenue
Fort Lauderdale, FL 33301
Telephone: (954) 828-5364

CONSULTANT: Mr. David G. Romano, PE
R.J. Behar & Company, Inc.
6861 S.W. 196th Ave, Suite 302
Pembroke Pines, FL. 33332
(954) 680-7771
dromano@rjbehar.com

11.27 ATTORNEY FEES

If CITY or CONSULTANT incurs any expense in enforcing the terms of this Agreement through litigation, the prevailing party in that litigation shall be reimbursed for all such costs and expenses, including but not limited to court costs, and reasonable attorney fees incurred during litigation.

11.28 PERMITS, LICENSES AND TAXES

CONSULTANT shall, at its own expense, obtain all necessary permits and licenses, pay all applicable fees, and pay all applicable sales, consumer, use and other taxes required to comply with local ordinances, state and federal law. CONSULTANT is responsible for reviewing the pertinent state statutes regarding state taxes and for complying with all requirements therein. Any change in tax laws after the execution of this Agreement will be subject to further negotiation and CONSULTANT shall be responsible for complying with all state tax requirements.

11.29 TRUTH-IN-NEGOTIATION CERTIFICATE

Signature of this Agreement by CONSULTANT shall act as the execution of a Truth-in-Negotiation Certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting. The original contract price and any additions thereto shall be adjusted to exclude any significant sums, by which the CITY determines that contract price was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs.

11.30 EVALUATION

The CITY maintains the right to periodically review the performance of the CONSULTANT. This review will take into account the timely execution of Task Orders, the quality of the work performed, the cost to the CITY and the good faith efforts made by the CONSULTANT to maintain MBE/WBE participation in CITY projects. Any deficiencies in performance will be described in writing and an opportunity afforded, where practicable, for the CONSULTANT to address and/or remedy such deficiencies.

11.31 STATUTORY COMPLIANCE

CONSULTANT shall prepare all documents and other materials for the Project in accordance with all applicable rules, laws, ordinances and governmental regulations of the State of Florida, Broward County, the City of Fort Lauderdale, Florida and all governmental agencies having jurisdiction over the services to be provided by CONSULTANT under this Agreement or over any aspect or phase of the Project.

(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)

[SIGNATURE PAGES TO FOLLOW]

IN WITNESS OF THE FOREGOING, the parties have set their hands and seals the day and year first written above.

CITY

WITNESSES:

CITY OF FORT LAUDERDALE, a municipal corporation of the State of Florida

By _____
JOHN P. "JACK" SEILER, Mayor

(Witness print name)

By _____
LEE R. FELDMAN, City Manager

(Witness print name)

(CORPORATE SEAL)

ATTEST:

JONDA K. JOSEPH
City Clerk

Approved as to form:

CARRIE L. SARVER
Assistant City Attorney

CONSULTANT

WITNESSES:

R.J. Behar & Company, Inc., a Florida corporation

(Witness print name)

By _____
Name: _____
Title: _____

(Witness print name)

ATTEST:

By _____

(CORPORATE SEAL)

STATE OF _____:
COUNTY OF _____:

The foregoing instrument was acknowledged before me this _____ day of _____, 20__, by _____ and _____ as _____ and _____ respectively, of _____. They are personally known to me or have produced _____ as identification.

(SEAL)

Notary Public, State of
(Signature of Notary taking Acknowledgment)

Name of Notary Typed, Printed or Stamped

My Commission Expires:

Commission Number

EXHIBIT "A"

SCOPE OF SERVICES

CONSTRUCTION ENGINEERING AND INSPECTION

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SCOPE OF SERVICES

The City of Fort Lauderdale is interested in entering into a continuing contract for professional services with a Professional Engineering firm to provide Consultant Engineering Services (CEI) for the specific FDOT/LAP City project noted below. The CEI Consultant will report directly to and work in conjunction with the City of Fort Lauderdale Construction Manager or a member of the City of Fort Lauderdale Construction Management Division staff. In addition to CEI Inspection services, the Consultant will be required to prepare and submit full compliance documentation as required by the FDOT/LAP Process, Procedures, and Regulations.

1.0 SCOPE:

This scope of services describes and defines the Construction Engineering and Inspection (CEI) services which are required to comply with FDOT/LAP Regulations and Requirements for contract administration, inspection, and oversight (only) of materials sampling and testing for the construction projects assigned.

The Consultant shall be responsible for providing services as defined in this Scope of Services, and for full compliance with the current FDOT/LAP Manuals and Process and Procedures.

The Consultant shall exercise their independent professional judgment in performing their obligations and responsibilities. Services provided by the Consultant shall comply with the FDOT/LAP Department Manuals, process and procedures, and memorandums in effect as of the date of execution of the Agreement unless otherwise directed in writing by the City of Fort Lauderdale and/or the FDOT/LAP. Such FDOT/LAP manuals, procedures, and memorandums are found at the FDOT/LAP website.

On a single Construction Contract, it is a conflict of interest for a professional firm to receive compensation from both the City of Fort Lauderdale and the Contractor either directly or indirectly.

The project for which the services are required is:

Project Number: P-10737

FDOT FM # 230734-1-58-01

Project name: SE 15th Avenue Bridge Replacement Project

Location: SE 15th Ave, Fort Lauderdale, FL

Scope: Replacement of existing bridges.

The CONSULTANT shall provide expertise during all elements of the construction particularly those affecting cost, time of construction, and expeditious and efficient completion of the project described hereunder.

- 1.1 The CONSULTANT will assist the CITY with a construction kick-off meeting.
- 1.2 The CONSULTANT shall participate in weekly progress meetings. Supplying support to prepare and distribute meeting minutes to all attendees and other as appropriate. Weekly progress meeting report shall include tracking the Contractor's progress against the approved baseline schedule.
- 1.3 The CONSULTANT shall inspect the progress of the construction and determine if the work is proceeding in accordance with the Contract Documents
- 1.4 The CONSULTANT shall serve as liaison between the Contractor and the CITY, permitting agencies, or other entity where such liaison is required to include public information relations.

- 1.5 The CONSULTANT shall review Contractor's applications for payment and the accompanying data, records and schedules.
- 1.6 Upon receipt of Contractor's notification, conduct inspection of the project to verify that the Contractor has attained Final Completion and assist in the preparation of a punch list of items to be corrected by the Contractor prior to issuance of certification of Final Completion by the CONSULTANT.
- 1.7 Upon verification that all items on the final punch list have been corrected, and upon receipt and review of all project close-out documents properly assembled and with proper certifications as applicable, the CONSULTANT will certify to the CITY that all work/equipment required by the Contract has been completed/installed and recommend final payment to the Contractor by the CITY.
- 1.8 Services to be performed in accordance with the schedule established by the CITY. It is anticipated that the construction duration for this project would be **200 working days** from Notice to Proceed, excluding City of Fort Lauderdale holidays and weekends.
- 1.9 The CONSULTANT will assist the CITY with contract and construction administration of this Local Agency Program (LAP) project to ensure all the FDOT/LAP requirements are met to certify the project to the Florida Department of Transportation.

2.0 LENGTH OF SERVICE:

The Consultant's services for each Construction Contract shall begin upon written notification to proceed by the City of Fort Lauderdale.

The Consultant Senior Project Engineer will track the execution of the Construction Contract such that the Consultant is given timely authorization to begin work. While no personnel shall be assigned until written notification by the City of Fort Lauderdale has been issued, the Consultant shall be ready to assign personnel within two weeks of notification. For the duration of the project, the Consultant shall coordinate closely with the City of Fort Lauderdale and Contractor to minimize rescheduling of Consultant activities due to construction delays or changes in scheduling of Contractor activities.

3.0 LIAISON:

The Consultant shall keep the City of Fort Lauderdale Construction Manager informed of all significant activities, decisions, correspondence, reports, and other communications related to its responsibilities under this Agreement, and seek input from the Construction Manager in order for the Construction Manager to oversee the Consultant's performance.

Agreement administrative duties relating to Invoice Approval Requests, Personnel Approval Requests, Time Extension Requests, and Supplemental Amendment Requests shall be reviewed and approved by the City of Fort Lauderdale Construction Manager.

4.0 PERFORMANCE OF THE CONSULTANT:

During the term of this Agreement and all supplements thereof, the City of Fort Lauderdale will review various phases of Consultant operations, such as construction inspection, oversight of materials sampling and testing, and administrative activities, to determine compliance with this Agreement. The Consultant shall cooperate and assist City of Fort Lauderdale representatives in conducting the reviews. If deficiencies are indicated, the Consultant shall implement remedial action immediately upon the approval of the City of Fort Lauderdale Construction Manager. City of Fort Lauderdale recommendations and Consultant responses/actions are to be properly documented by the Senior Project Engineer. No additional compensation shall be allowed for remedial action taken by the Consultant to correct deficiencies. Remedial actions and required response times may include but are not necessarily limited to the following:

- A. Further subdivide assigned inspection responsibilities, reassign inspection personnel, or assign additional inspection personnel, within one week of notification.
- B. Replace personnel whose performance has been determined by the City of Fort Lauderdale to be inadequate. Personnel whose performance has been determined to be unsatisfactory shall be removed immediately.
- C. Immediately increase the frequency of monitoring and inspection activities in phases of work that are the Consultant's responsibility.
- D. Increase the scope and frequency of training of the Consultant personnel.

5.0 REQUIREMENTS:

5.1 General:

It shall be the responsibility of the Consultant to administer, monitor, and inspect the Construction Contract such that the project is constructed in reasonable conformity with the plans, specifications, and special provisions for the Construction Contract, and that the project is administered in conformity with FDOT/LAP Process and Procedures, and Regulations.

The Consultant shall observe the Contractor's work to determine the progress and quality of work, identify discrepancies, report significant discrepancies to the City of Fort Lauderdale, and direct the Contractor to correct such observed discrepancies.

The Consultant shall consult with the City of Fort Lauderdale Construction Manager, as it deems necessary and shall direct all issues, which exceed its delegated authority to the Construction Manager for City of Fort Lauderdale action or direction.

The Consultant shall advise the City of Fort Lauderdale Construction Manager of any significant omissions, substitutions, defects, and deficiencies noted in the work of the Contractor and the corrective action that has been directed to be

performed by the Contractor. Work provided by the Consultant shall not relieve the Contractor of responsibility for the satisfactory performance of the Construction Contract.

5.2 Survey Control:

When required due to the specific nature of the individual project, the Consultant shall monitor and provide oversight of the survey control baseline(s) along with sufficient baseline control points and bench marks at appropriate intervals along the project in order to: (1) make and record such measurements as are necessary to calculate and document quantities for pay items, and (2) make and record pre-construction and final cross section surveys of the project site in those areas where earthwork (i.e., embankment, excavation, subsoil excavation, etc.) is part of the construction project.

5.3 On-site Inspection:

The Consultant shall monitor the Contractor's on-site construction activities and inspect materials entering into the work in accordance with the plans, specifications, and special provisions for the Construction Contract to determine that the projects are constructed in reasonable conformity with such documents. The Consultant shall keep detailed accurate records of the Contractor's daily operations and of significant events that affect the work. The Consultant shall insure compliance with FDOT/LAP Process, Procedures, and Regulations.

Consultant shall be responsible for monitoring and inspection of Contractor's Work

Zone Traffic Control Plan and review of modifications to the Work Zone Traffic Control Plan, including Alternate Work Zone Traffic Control Plan, in accordance with the City of Fort Lauderdale and Broward County procedures. Consultant employees performing such services shall be qualified in accordance with these procedures.

5.4 Sampling and Testing:

When required due to the specific nature of the individual project, the Consultant shall monitor sampling and testing of component materials and completed work in accordance with the Construction Contract documents. The minimum sampling frequencies set out in the FDOT/LAP Materials Sampling, Testing and Reporting Guide shall be met. In complying with the aforementioned guide, the Consultant shall provide daily surveillance of the Contractor's Quality Control activities at the project site and perform the sampling and testing of materials and completed work items that are normally done in the vicinity of the project for verification and acceptance.

The City of Fort Lauderdale through its vender will perform sampling of materials and components at all locations.

The Consultant shall be responsible for monitoring job control samples determining the acceptability of all materials and completed work items on the

basis of either test results or verification of a certification, certified mill analysis, DOT label, DOT stamp, etc.

Documentation reports on sampling and testing shall be submitted to responsible parties during the same week that the construction work is done.

5.5 Engineering Services:

The Consultant shall monitor the Construction Contract administration activities of all parties involved in completing the construction project.

Services may include maintaining the required level of surveillance of Contractor activities, interpreting plans, specifications, and special provisions for the Construction Contract, maintaining complete, accurate records of all activities and events relating to the project, and properly documenting all significant project changes. The Consultant shall perform the following services:

(1) Schedule and attend, within ten (10) days after the Notice to Proceed, a pre-construction conference for the project in accordance with City of Fort Lauderdale procedures. The Consultant shall provide appropriate staff to attend and participate in the pre-service meeting.

The Consultant shall record a complete and concise record of the proceedings of the pre-construction meeting and distribute copies of this summary to the participants and other interested parties within seven (7) days. The Consultant shall submit Action Request packages for Personnel Approval for immediate staff needs and a copy/computer file of the final negotiated staffing to the City of Fort Lauderdale Construction Manager, either at this meeting or within seven (7) days.

(2) Schedule within ten (10) days after the Notice to Proceed, a date to attend Site Manager/EDMS informational meeting with the FDOT/LAP District Construction Office. The Consultant shall provide appropriate staff to attend and participate in this meeting.

(3) Verify that the Contractor is conducting inspections, preparing reports and monitoring all storm water pollution prevention measures associated with the project. For each project that requires the use of the NPDES General Permit, there shall be at least one inspector who has successfully completed the "Florida Storm water, Erosion, and Sedimentation Control Training and Certification Program for Inspectors and Contractors".

(4) Monitor and document utility construction for conformance with Utility Agency's Water and Sewer Standards and the Utility Agency's Approved Materials List

(5) If required, produce reports, verify quantity calculations and field measure for payment purposes as needed to prevent delays in Contractor operations and to facilitate prompt processing of such information in order for the City of Fort Lauderdale to make timely payments to the Contractor.

(6) Confirm Contractor staffing and provide required reports and verify calculations for payment purposes as needed to prevent delays in Contractor operations and to facilitate prompt processing of such information in order to comply with FDOT/LAP regulations.

(7) Monitor each Contractor and subcontractor's compliance with specifications and special provisions of the Construction Contract in regard to payment of predetermined wage rates in accordance with FDOT/LAP procedures.

(8) Provide a Resident Compliance Specialist for surveillance of the Contractor's compliance with Construction Contract requirements. The Resident Compliance Specialist is responsible for reviewing, monitoring, evaluating and acting upon documentation required for Construction Contract compliance, and maintaining the appropriate files thereof. Typical areas of compliance responsibility include EEO Affirmative Actions for the prime contractor and subcontractor, DBE Affirmative Action, Contractor Formal Training, Payroll, and Subcontracts. The Resident Compliance Specialist must keep all related documents and correspondence accurate and up to date; attend all compliance reviews and furnish the complete project files for review; and assist the District Contract Compliance Manager as requested.

(9) Prepare and submit to the City of Fort Lauderdale Construction Manager monthly, a Construction Status Report, in a format to be approved by the City of Fort Lauderdale.

(10) Photograph the pre-construction conditions throughout the project limits. Provide a digital photo log or video of project activities, with heavy emphasis on potential claim items/issues and on areas of real/potential public controversy. The Consultant will provide visual documentation of the Project through the periodic collection of a set of panoramic digital photographs at each of a series of predetermined series of photographic stations throughout the project.

5.6 Geotechnical Engineering:

When required due to the specific nature of the individual project, the Consultant shall observe the progress and quality of foundation work to determine that the foundations are constructed at the correct location and elevation, identify discrepancies, submit monthly progress reports to the FDOT/LAP District Geotechnical Office (DGO), and direct the Contractor to correct such observed discrepancies. The Consultant shall attend the preconstruction conference and/or special geotechnical meeting for the construction contract. All services under this section will be performed in accordance to FDOT Specification Section 455.

The Geotechnical Engineer will provide the following services with the assistance of a qualified inspector who has completed the FDOT Drilled Shaft/Pile Driving Qualification Courses.

1) Drilled Shafts:

- a) Review the drilled shaft installation plan submitted by the Contractor for materials, methods, equipment, etc., and provides recommendations to the Department within five (5) working days of the Contractor's submission.
- b) Observe installation of test methods shaft(s) such that it is constructed in reasonable conformity with the plans, specifications, and special provisions for the Construction Contract. The Consultant shall report on the adequacy of the Contractor's methods and propose any changes to the Contractor within one week of completion of the test methods shaft(s) construction.
- c) Observe construction of test shafts and production shafts. This includes review of testing of drilling slurry, core drilling and core logs, and other procedures as required.
- d) Inspect the bottom of the shafts for cleanliness using manual soundings.
- e) Provide all necessary forms and keep a log of all inspections made of the shafts. These logs made during the shaft inspections shall be turned over to the Department within five (5) days after completion of any shaft. Logs shall be signed and sealed by the Geotechnical Engineer.
- f) Provide, to the DGO, a written report of all test shaft installations within 5 days of shaft completion.
- g) When conditions occur which are different from those indicated on the plans, the Geotechnical Engineer shall adjustments to the authorized depths as necessary to obtain the shaft capacity to the DGO for approval.
- h) Perform Pile Integrity Testing as required to verify shaft uniformity and to detect shaft defects.

2) Piles:

- a) Perform WEAP runs to determine suitability of hammer driving system for the project. Provide results (Check stresses, design capacity, and ultimate capacity) to the FDOT within 5 working days of the Contractor's submittal.
- b) Review Contractor's Pile Installation Plan and provide comments to the Senior Project Engineer and to the DGO within 5 working days of the Contractor's submittal.
- c) Instrument test piling and production piling (when deemed necessary by the District Geotechnical Engineer) during initial driving and re-drives.
- d) When monitoring the test pile driving process, determine proper fuel settings, thickness of pile cushions and when they need changing. Record all pertinent information that is needed to determine the driving criteria such as jetting, performing, pre-drilling, reference elevation, hammer serial number hammer cushion material and thickness, pile cushion material and thickness, etc. This information shall be provided to the DGO within 24 hours after the test pile driving

process is completed. In most cases this information will be requested immediately following test pile completion.

- e) Perform Case Pile Wave Equation Analysis (CAPWAP) on selected blows, using the latest version. At a minimum, CAPWAP shall be performed at the end of drive, before and after set-checks, and where the anticipated tip for the production piles is expected to occur. If requested, the end of drive CAPWAP will be performed in the field upon completion of the drive, otherwise it shall be completed within 24 hours of driving each pile.
- f) Perform all required WEAP analysis, using the latest version, to provide proof of compliance with the plans and specifications for production pile driving. This includes evaluation of all design loads, evaluation of soil parameters, assistance with cushion selection and stroke selection for driving stress control. The final wave equation analysis required for production driving shall be provided to the DGO within 4 working days after the test pile program is completed, unless requested sooner.
- g) Analyze the test data and available soils data as required to establish production pile lengths and driving criteria. Submit a preliminary report recommending lengths and criteria to the DGO for approval within 4 working days after the test pile program is completed, unless requested sooner. The preliminary report shall include CAPWAP and WEAP printed & plotted outputs, and all raw data obtained by the PDA and CAPWAP solutions (i.e. file 18's) on 100MB Zip Drive or CD computer disks.
- h) Furnish final written letters, signed and sealed, in the agreed format for production pile lengths and the driving criteria.

5.7 Utility Coordination:

When required due to the specific nature of the individual project, it shall be the responsibility of the Consultant to monitor utility coordination such that it is in reasonable conformance to Plans and current City of Fort Lauderdale and FDOT/LAP standards, policies, procedures, and design criteria.

When required due to the specific nature of the individual project, the Consultant may employ more than one individual or utility engineering consultant to provide utility coordination. However, the Consultant shall employ and identify a single full time dedicated person responsible for managing all utility coordination. This person shall be contractually referred to as the Utility Coordinator and shall be identified in the Consultant's proposal.

The Utility Coordinator shall be responsible for, but not limited to, the following:

1. Making sure Utility Coordination is conducted in accordance to the Department's standards, policies, procedures, and design criteria.

2. Scheduling utility meetings, keeping and distribution of minutes of all utility meetings, and ensuring expedient follow-up on all unresolved issues.
3. Distributing all plans, conflict matrixes and changes to affected utility owners and making sure this information is properly coordinated.
4. Identifying and coordinating the completion of any Department or utility owner agreement that is required for reimbursement, or accommodation of the utility facilities associated with the construction project.
5. Assisting the Engineer of Record and the Contractor with resolving utility conflicts.
6. Reviewing of all Utility Work Schedules.
7. Handling reimbursable issues inclusive of betterment and salvage determination.

6.0 PERSONNEL:

Please note that all of the services and personnel titles listed below may or may not be required on every FDOT/LAP project. When required due to the specific nature of the individual project, portions of scope details below may or may not be included for the scope of the project.

6.1 General Requirements:

The Consultant will be required to submit documentation that their firm is certified and qualified by the State of Florida, FDOT/LAP Department to prepare and submit the required documentation for FDOT/LAP compliance.

The Consultant shall staff the project with the qualified personnel necessary to efficiently and effectively carry out its responsibilities under this Agreement. Method of compensation for personnel assigned to this project is outlined in elsewhere in this document. Unless otherwise agreed by the City of Fort Lauderdale, the City will not compensate straight overtime or premium overtime for the positions of Senior Project Engineer, Project Administrator, Contract Support Specialist, and Associate Contract Support Specialist.

6.2 Personnel Qualifications:

The Consultant shall utilize only competent personnel, certified by the FDOT/LAP as competent to perform FDOT/LAP work, and qualified by experience, and education. The Consultant shall submit in writing to the City of Fort Lauderdale Construction Manager and FDOT/LAP, the names of personnel proposed for assignment to the project, including a detailed resume for each containing at a minimum salary, education, and experience. The Consultant Action Request form for personnel approval shall be submitted to the City of Fort

Lauderdale Construction Manager at least two weeks prior to the date an individual is to report to work.

Personnel identified in the Consultant technical proposal are to be assigned as proposed and are committed to performing services under this Agreement. Personnel changes will require written approval from City of Fort Lauderdale. Staff, which has been removed shall be replaced by the Consultant within one week of City notification.

Before the project begins, all project staff shall have a working knowledge of the current CPAM and must possess all the necessary qualifications/certifications for obtaining the duties of the position they hold. Cross training of the Consultant's project staff is highly recommended to achieve a knowledgeable and versatile project inspection team but shall not be at any additional cost to the Department and should occur as workload permits. Visit the training page on the FDOT/LAP Construction Office website for training dates.

Minimum qualifications for the specific Consultant personnel are set forth as follows.

Complex Category Two (CC2) Bridge Structures: Bridge structures that are complex and require advanced designs and construction engineering inspection. Following structures are classified as CC2 bridge structures:

- Concrete Post-Tensioned Segmental Box Girder (CPTS)
- Concrete Post-Tensioned Continuous Beam (CPTCB)
- Movable Bridges (MB)

SENIOR PROJECT ENGINEER -A Civil Engineer degree and be registered in the State of Florida as a Professional Engineer (or if registered in another state, the ability to obtain registration in the State of Florida within six months) and six (6) years of engineering experience [(two (2) years of which are in major road or bridge construction)] or [(five (5) of which are in major bridge construction) -for Complex Bridge Projects], or for non-degreed personnel the aforementioned registration and ten (10) years of engineering experience (two (2) years of which are in major road or bridge construction). Qualifications include the ability to communicate effectively in English (verbally and in writing); direct highly complex and specialized construction engineering administration and inspection program; plans and organizes the work of subordinate and staff members; develops and/or reviews policies, methods, practices, and procedures; and reviews programs for conformance with Department standards. Also must have the following:

Qualification:

FDOT Advanced MOT

Pass the CTQP examination covering the training video "Grouting of Bridge Post-tensioning Tendons" (If applicable)

Attend the CTQP Quality Control Manager course and pass the examination.

Certifications:

None

A Master's Degree in Engineering may be substituted for one (1) year engineering experience.

PROJECT ADMINISTRATOR -A Civil Engineering degree plus two (2) years of engineering experience in construction of major road or bridge structures, or for non-degreed personnel eight (8) years of responsible and related engineering experience, two (2) years of which involved construction of major road or bridge structures with the exception of Complex Category 2 (CC2) bridge structures.

For CC2 bridge structures, be a registered professional engineer in the State of Florida (or if registered in another state, have the ability to obtain registration in Florida within six (6) months) and have a Civil Engineering degree plus five (5) years, or be non-registered with eight (8) years, of general bridge construction experience of which two (2) years for registered project administrators, or four (4) years for non-registered project administrators, must have been with the type of CC2 bridge construction project for which CEI services are being provided by this scope. Additionally, a minimum of twelve (12) months of experience as the Project Administrator in primary control of the type of CC2 construction project for which CEI services are being provided by this scope. To be in primary control, a Project Administrator must have supervised two or more inspectors as well as two or more support staff (Office Manager, Compliance Officer, and Secretary) and must have been directly responsible for all CEI services assigned.

CPTS years of experience must have included a minimum of twelve (12) months experience in each of the following areas: (1) casting yard operations and related surveying; (2) segment erection and related surveying, post-tensioning (PT) of tendons and grouting of prestressing steel.

CPTCB years of experience must include monitoring of the following: girder erection, safe use of girder erection cranes, stabilization of girders after erection, false work for temporary girder support, and PT and grouting operations.

MB years of experience must have been in MB mechanical and/or electrical construction.

Receives general instructions regarding assignments and is expected to exercise initiative and independent judgment in the solution of work problems. Directs and assigns specific tasks to inspectors and assists in all phases of the construction project. Will be responsible for the progress and final estimates throughout the construction project duration. Must have the following:

Qualifications:

FDOT Intermediate MOT

Pass the CTQP examination covering the training video "Grouting of Bridge Post-tensioning Tendons" (If applicable)

CTQP Final Estimates Level II

Certifications:

SSPC course: C-3 Supervisor/Competent Person Training for Deleading of Industrial Structures (If applicable)

Other:

Attend CTQP Quality Control Manager Course and pass the examination.

A Master's Degree in Engineering may be substituted for one (1) year of engineering experience

CONTRACT SUPPORT SPECIALIST -A High School diploma or equivalent and four (4) years of road & bridge construction engineering inspection (CEI) experience having performed/assisted in project related duties (i.e., CQR/LIMS, progress and final estimates, EEO compliance, processing Construction Contract changes, etc.) or a Civil Engineering. Should exercise independent judgment in planning work details and making technical decisions related to the office aspects of the project. Should be familiar with the Department's Procedures covering the project related duties as stated above and be proficient in the computer programs necessary to perform these duties. Shall become proficient in Multi-Line and Engineering Menu.

Qualifications:

CTQP Final Estimates Level II

ASSOCIATE CONTRACT SUPPORT SPECIALIST -High school graduate or equivalent plus three (3) years of secretarial and/or clerical experience including two (2) years experience in construction office management having performed project related duties (i.e., CQR, progress and final estimates, EEO compliance, processing Construction Contract changes, etc.). Ability to type at a rate of 35 correct, words per minute. Experienced in the use of standard word processing software. Should exercise independent initiative to help relieve the supervisor of clerical detail. Assists the Project Administrator in office related duties (i.e., CQR, progress, and final estimates, EEO compliance, Processing Construction Contract changes, etc.) Project specific. Work under the general supervision of the Senior Project Engineer and staff. Note: This position will not be used if a Contract Support Specialist is utilized.

RESIDENT COMPLIANCE SPECIALIST - Graduation from an accredited high school or equivalent with one (1) year of experience as a resident compliance officer on a construction project or two (2) years of assisting the compliance officer in monitoring the project. Should have prior experience in both State funded and Federal Aid funded construction projects with FDOT and knowledge of EEO/AA laws and FDOT's DBE and OJT programs. Ability to analyze, collect, evaluates data, and take appropriate action when necessary. Must attend all training workshops or meetings for Resident Compliance Specialists as determined necessary.

SENIOR INSPECTOR/SENIOR ENGINEER INTERN – High school graduate or equivalent plus four (4) years of experience in construction inspection, two (2) years of which shall have been in bridge and/or roadway construction inspection with the exception of Complex Category 2 (CC2) bridge structures.

For CC2 bridge structures, be a high school graduate or equivalent and have five (5) years of general bridge construction experience of which two (2) years must have been with the type of CC2 bridge construction project for which CEI services are being provided by this scope. Additionally, a minimum of twelve (12)

months of experience as the Senior Inspector in primary control of the type CC2 construction project for which CEI services are being provided by this scope. To be in primary control, a Senior Inspector must have supervised two or more inspectors and must have been directly responsible for all inspection requirements related to the construction operations assigned.

CPTS years of experience must have included a minimum of twelve (12) months of inspection experience in one or both of the following depending on which area the inspector is being approved for: (1) casting yard inspection; (2) erection inspection. In addition, two (2) years of geometry-control surveying experience is required for inspectors that perform or monitor geometry control surveying in a casting yard.

CPTCB years of experience must include monitoring and inspection of the following: girder erection, safe use of girder erection cranes, girder stabilization after erection, false work for temporary girder support, and PT and grouting operations.

MB years of experience must have included the inspection of MB mechanical components for machinery inspectors and MB electrical components/systems for electrical inspectors.

Must have the following:

Qualifications:

CTQP Concrete Field Inspector Level I

CTQP Concrete Transportation Construction Inspector (CTCI) Level II (all bridges)

CTQP Asphalt Roadway Level I (If applicable)

CTQP Asphalt Roadway Level II (If applicable)

CTQP Earthwork Construction Inspection Level I

CTQP Earthwork Construction Inspection Level II

CTQP Pile Driving Inspection (If applicable)

CTQP Drilled Shaft Inspection (If applicable – required for inspection of all drilled shafts including miscellaneous structures such as Sign structures, Lighting structures, and Traffic Signal structures)

CTQP Grouting Technician Level I (If applicable)

CTQP Post-Tensioning Technician Level I (If applicable)

FDOT Intermediate MOT

CTQP Final Estimates Level I

Certifications:

SSPC course: C-3 Supervisor/Competent Person Training for Deleading of Industrial Structures (If applicable)

Or a Civil Engineering degree and one (1) year of road & bridge CEI experience with the ability to earn additional required qualifications within one year. (Note: Senior Engineer Intern classification requires one (1) year experience as an Engineer Intern.)

Responsible for performing highly complex technical assignments in field surveying

and construction layout, making, and checking engineering computations, inspecting construction work, and conducting field tests and is responsible for coordinating and managing the lower level inspectors. Work is performed under the general supervision of the Project Administrator.

INSPECTOR/ENGINEER INTERN -High school graduate or equivalent plus two (2) years experience in construction inspection, one (1) year of which shall have been in bridge and/or roadway construction inspection, plus the following:

Qualifications:

CTQP Concrete Field Inspector Level I
CTQP Asphalt Roadway Level I (If applicable)
CTQP Earthwork Construction Inspection Level I
CTQP Pile Driving Inspection (If applicable)
CTQP Drilled Shaft Inspection (If applicable— required for inspection of all drilled shafts including miscellaneous structures such as Sign structures, Lighting structures, and Traffic Signal structures)
CTQP Final Estimates Level I

Certifications:

None

Or a Civil Engineering degree with the ability to earn additional required qualifications within one year. (Note: Engineer Intern classification requires E.I.T. certificate.)

Responsible for performing assignments in assisting Senior Inspector in the performance of their duties. Receive general supervision from the Senior Inspector who reviews work while in progress. Civil Engineering graduates must obtain certifications within the first year of working as an inspector or Engineer Intern. Exceptions will be permitted on a case-by-case basis so long as qualifications and certifications are appropriate for specific inspection duties.

ASPHALT PLANT INSPECTOR -High School graduate or equivalent plus one (1) year experience in the surveillance and inspection of hot mix asphalt plant operations and the following:

Qualifications:

CTQP Asphalt Plant Level I
CTQP Asphalt Plant Level II
CTQP Final Estimates Level I

Certifications:

None

INSPECTORS AIDE - High School graduate or equivalent and able to perform basic mathematical calculation and follow simple technical instructions. Duties are to assist higher-level inspectors.

SURVEY PARTY CHIEF - High School graduate plus four years of experience in construction surveying (including two (2) years as Party Chief). Experienced in field engineering and construction layout, making and checking survey computations and supervising a survey party. Work is performed under general supervision of Project Administrator.

INSTRUMENT-MAN - High school graduate plus three (3) years of experience in construction surveying one (1) year of which shall have been as instrument-man. Responsible for performing assignments in assisting Party Chief in the performance of their duties. Receives general supervision from Party Chief who reviews work while in progress.

ROD-MAN/CHAIN-MAN -High school graduate with some survey experience or training preferred. Receives supervision from and assists Party Chief who reviews work while in progress.

SECRETARY/CLERK TYPIST -High school graduate or equivalent plus two (2) years of secretarial and/or clerical experience. Ability to type at a rate of 35 correct words per minute. Experienced in the use of standard word processing software. Should exercise independent initiative to help relieve the supervisor of clerical detail. Work under general supervision of the Senior Project Engineer and their staff.

ENVIRONMENTAL SPECIALIST -A bachelors degree with a major in one of the physical or natural sciences or engineering and two (2) years of professional experience in environmental protection, regulation or health; one of the physical or natural sciences; or engineering; or a Masters degree in one of the physical or natural sciences or engineering and one (1) year of professional experience described above; or a Doctorate degree in one of the physical of natural sciences or engineering or one (1) year of experience as an Environmental Specialist I with the State Of Florida. Receives general instruction regarding assignments and is expected to exercise initiative, and independent judgment in the solution of work problems. Must have knowledge of the terminology, principles, data collection, and analytical techniques and procedures of the physical or natural sciences. Also must have ability to collect, evaluate, analyze, and interpret scientific or technical data.

CASTING YARD ENGINEER/MANAGER -CONCRETE POST-TENSIONED SEGMENTAL BOX GIRDER BRIDGES (CPTS) -Be a registered Professional Engineer in the State of Florida (or if registered in another state, have the ability to obtain registration in Florida within 6 months) with a minimum of one (1) year, or non-registered with a minimum of three (3) years, of experience with the use of geometry control computer programs and with the performance of surveying procedures required for the production of precast concrete box segments at a casting yard.

GEOTECHNICAL ENGINEER -Be a registered Professional Engineer in the State of Florida (or if registered in another state, have the ability to obtain registration in Florida within 6 months) with a minimum of 5 years of experience in being in responsible charge of the geotechnical foundation construction engineering and dynamic testing work on at least five (5) Department bridge projects, including Department Structures Design Category 2 bridge projects, having driven pile foundations/drilled shaft foundations or similar projects for other State Department of Transportation. "Responsible charge" experience shall include verifiable and successful drilled shaft installation and coring inspections and constructions, static, Osterberg Cell and/or Statnamic load test experience, as well as Pile Driving Analyzer (PDA), WEAP computer program and CAPWAP computer programs to analyze concrete/steel/timber piling.

GEOTECHNICAL TECHNICIAN - Knowledge in the use and provisions of the PDA system, WEAP and CAPWAP computer programs to analyze concrete/steel/timber piling in conjunction with dynamic load tests with a minimum of three (3) years of experience on at least two (2) Department bridge projects.

Qualifications:

CTQP Pile Driving Inspection

CTQP Drilled Shaft Inspection

PUBLIC INFORMATION OFFICER – High school graduate or equivalent and be knowledgeable in public information and/or advertising involving mass circulation or distribution of literature, mass advertising or other similar activities and performed such work for a at least three (3) years.

UTILITY COORDINATOR -High school graduate or equivalent and be knowledgeable of Department's Standards, policies, procedures, and agreements and shall have a minimum of 4 years of experience performing utility coordination in accordance with Department's Standards, policies, procedures, and agreements.

SENIOR ITS INSPECTOR -High school graduate or equivalent plus four (4) years of experience in construction inspection, two (2) years of which shall have been in ITS construction inspection, plus the following:

Qualifications:

Fiber Installation Inspection and OTDR Fiber Testing

DMS Operation and Testing

Controller Operation and Testing

CCTV Installation, Operation and Testing

Familiarity with Existing Communication Equipment and Switches

Certifications:

IMSA Level II

or a Civil Engineering degree and one (1) year of ITS CEI experience.

Responsible for performing highly complex technical assignments in field surveying and construction layout, making and checking engineering computations, inspecting construction work and conducting field tests and is responsible for coordinating and managing the lower level inspectors. Work is performed under the general supervision of the Project Administrator.

ITS INSPECTOR -High school graduate or equivalent plus two (2) years experience in construction inspection, one (1) year of which shall have been in ITS construction inspection, plus the following:

Qualifications:

Fiber Installation Inspection and OTDR Fiber Testing
DMS Operation and Testing
Controller Operation and Testing
CCTV Installation, Operation and Testing
Familiarity with Existing Communication Equipment and Switches

Certifications:

None

or a Civil Engineering degree.

Responsible for performing assignments in assisting Senior Inspector in the performance of their duties. Receive general supervision from the Senior Inspector who reviews work while in progress. Civil Engineering graduates must obtain certifications within the first year of working as an inspector or Engineer Intern. Exceptions will be permitted on a case-by-case basis so long as qualifications and certifications are appropriate for specific inspection duties.

6.3 Staffing:

Once authorized, the Consultant shall establish and maintain an appropriate staff through the duration of construction and completion of the final estimate. Responsible personnel, thoroughly familiar with all aspects of construction and final measurements of the various pay items, shall be available to resolve disputed final pay quantities until the appropriate Construction Contract has been paid off.

Construction engineering and inspection forces will be required of the Consultant at all times while the Contractor is working. If Contractor operations are substantially reduced or suspended, the Consultant will reduce its staff appropriately.

In the event that the suspension of Contractor operations requires the removal of Consultant forces from the project, the Consultant will be allowed ten (10) days maximum to demobilize, relocate, or terminate such forces.

7.0 QUALITY ASSURANCE (QA) PROGRAM:

7.1 Quality Reviews:

The Consultant shall conduct reviews to make certain his own organization is in compliance with the requirements cited in the Scope of Services. Quality Reviews shall be conducted to evaluate the adequacy of materials, processes, documentation, procedures, training, guidance, and staffing included in the execution of this Agreement. Quality Reviews shall also be developed and performed to achieve compliance with specific QA provisions contained in this Agreement. The semi-annual reviews shall be submitted to the City of Fort Lauderdale Construction Manager in written form no later than one (1) month after the review.

On short duration CCEI projects (nine (9) months or less), the CCEI shall perform an initial QA review within the first two (2) months of the start of construction.

On asphalt projects, the CCEI shall perform an initial QA review on its asphalt inspection staff after the Contractor has completed ten (10) full work days of mainline asphalt paving operations, or 25% of the asphalt pay item amount (whichever is less) to validate that all sampling, testing, inspection, and documentation are occurring as required of the CCEI staff.

7.2 QA Plan:

Within thirty (30) days after receiving award of an Agreement, the Consultant shall furnish a QA Plan to the City of Fort Lauderdale Construction Manager. The QA Plan shall detail the procedures, evaluation criteria, and instructions of the Consultant's organization for providing services pursuant to this Agreement. Unless specifically waived, no payment shall be made until the City of Fort Lauderdale approves the Consultant QA Plan.

Significant changes to the work requirements may require the Consultant to revise the QA Plan. It shall be the responsibility of the Consultant to keep the plan current with the work requirements. The Plan shall include, but not be limited to, the following areas:

A. Organization:

A description is required of the Consultant QA Organization and its functional relationship to the part of the organization performing the work under the Agreement. The authority, responsibilities and autonomy of the QA organization shall be detailed as well as the names and qualifications of personnel in the quality control organization.

B. Quality Reviews:

The Consultant QA shall detail the methods used to monitor and achieve organization compliance with Agreement requirements for services and products.

C. Quality Records:

The Consultant will outline the types of records, which will be generated and maintained during the execution of his QA program.

D. Control of Sub-consultants and Vendors:

The Consultant will detail the methods used to control sub-consultants and vendor quality.

E. Quality Assurance Certification:

An officer of the Consultant firm shall certify that the inspection and documentation was done in accordance with FDOT specifications, plans, standard indexes, and City of Fort Lauderdale procedures.

7.3 Quality Records:

The Consultant shall maintain adequate records of the quality assurance actions performed by his organization (including subcontractors and vendors) in providing services and products under this Agreement. All records shall indicate the nature and number of observations made, the number and type of deficiencies found, and the corrective actions taken. These records shall be available to the Department, upon request, during the Agreement term. All records shall be kept at the primary job site and shall be subject to audit review.

8.0 CERTIFICATION OF FINAL ESTIMATES:

8.1 Final Estimate and As-Built Plans Submittal:

Prepare documentation and records in compliance with the Agreement, Statewide Quality Control (QC) Plan, or Consultant's approved QC Plan and the City of Fort Lauderdale and FDOT/LAP Procedures.

Submit the Final Estimate(s) and one (1) set of final "as-built plans" documenting Contractor's work (one record set with two copies) as follows:

- (a) Within thirty (30) calendar days of final acceptance; or
- (b) Where all items of work are complete and conditional/partial acceptance is utilized (Lighting, Plant establishment, etc.) for a period exceeding thirty (30) calendar days, the final estimate(s) will be due on the thirtieth (30th) day after conditional/partial acceptance. A memorandum with documentation will be transmitted to the District Final Estimate Manager at final acceptance detailing any necessary revisions to the pay items covered under the conditional/partial acceptance.

The Consultant shall be responsible for making any revisions to the Certified Final Estimate at no additional cost to the City of Fort Lauderdale.

8.2 Certification:

Consultant personnel preparing the Certified Final Estimate Package shall be CTQP Final Estimates Level II.

Duly authorized representative of the Consultant firm will provide a notarized certification on a form pursuant to City of Fort Lauderdale and FDOT/LAP Department procedures.

8.3 Offer of Final Payment:

The Consultant shall prepare the Offer of Final Payment package as outlined in Chapter 14 of the Review and Administration Manual. The package shall accompany the Certified Final Estimates Package submitted to the DFEO. The Consultant shall be responsible for forwarding the Offer of Final Payment Package to the Contractor.

9.0 AGREEMENT MANAGEMENT:

9.1 General:

(1) With each monthly invoice submittal, the Consultant Senior Project Engineer will provide a reviewed and approved Status Report for the Agreement. This report will provide the Consultant Senior Project Engineer's accounting of the additional Agreement calendar days allowed to date, an estimate of the additional Agreement calendar days anticipated to be added to the original Agreement schedule time, an estimate of the Agreement completion date, and an estimate of the Consultant funds expiration date per Agreement schedule for the prime Consultant and for each sub-consultant.

(2) When the Consultant identifies a condition that will require an Amendment Request (AR) to the Agreement, the Consultant Project Principal or Consultant Senior Project Engineer will communicate the need to the City of Fort Lauderdale Construction Manager for an approval in concept. Once received, the Consultant shall prepare and submit the AR, and all accompanying documentation to the City of Fort Lauderdale Construction Manager for approval and further processing. The Consultant shall submit ARs to allow the Department 12 weeks to process, approve, and execute the AR. The content and format of the AR and accompanying documentation shall be in accordance with the instructions and format to be provided by the City of Fort Lauderdale.

(3) When the Consultant identifies a condition that will require a Supplemental Amendment Request (SAR) to the Agreement, the Consultant Project Principal or Consultant Senior Project Engineer will communicate this condition/need to the City of Fort Lauderdale Construction Manager and request approval in concept. Once received, the Consultant shall prepare and submit the SAR, and all accompanying documentation to the Construction Manager for approval and further processing. The Consultant shall submit SARs to allow the Department 12 weeks to process, approve, and execute the SAR. The content

and format of the SAR and accompanying documentation shall be in accordance with the instructions and format to be provided by the City of Fort Lauderdale.

(4) The Consultant Project Principal or Consultant Senior Project Engineer for the project shall be responsible for performing follow-up activities to determine the status of each AR and SAR submitted to the City of Fort Lauderdale.

9.2 Invoicing Instructions:

Monthly invoices shall be submitted to the City of Fort Lauderdale in a format and distribution schedule defined by the City of Fort Lauderdale, no later than the 20th day of the following month.

If the Consultant cannot submit their monthly invoice on time, the Consultant shall notify the City of Fort Lauderdale, prior to the due date the reason for the delay and the planned submittal date. Once submitted, the Consultant Project Principal or Senior Project Engineer shall notify the City of Fort Lauderdale Construction Manager via e-mail of the total delay in calendar days and the reason(s) for the delay(s).

All invoices shall be submitted to the City of Fort Lauderdale in electronic and hard copy formats in accordance with City of Fort Lauderdale process and procedures. The City of Fort Lauderdale Construction Manager must receive hard copy documentation within three (3) workdays of electronic submittal or the electronic submittal will be rejected. (Saturday, Sunday, and Department holidays are not considered workdays).

A Final Invoice will be submitted to the City of Fort Lauderdale no later than the 30th day following Final Acceptance of the individual project or as requested by the City of Fort Lauderdale.

10.0 SUBCONSULTANT SERVICES

Upon written approval by the City of Fort Lauderdale Construction Manager, and prior to performance of work, the Consultant may subcontract for engineering surveys, materials testing, or specialized professional services.

11.0 OTHER SERVICES:

Upon written authorization by the City of Fort Lauderdale Construction Manager or designee, the Consultant will perform additional services in connection with the project not otherwise identified in this Agreement. The following items are not included as part of this Agreement, but may be required by the City of Fort Lauderdale to supplement the Consultant services under this Agreement.

- A. Assist in preparing for arbitration hearings or litigation that occurs during the Agreement time in connection with the construction project covered by this Agreement.
- B. Provide qualified engineering witnesses and exhibits for any litigation or hearings in connection with the Agreement.
- C. Provide on-and off-site inspection services in addition to those provided for in this Agreement.

12.0 POST CONSTRUCTION CLAIMS REVIEW:

In the event the Contractor submits a claim for additional compensation and/or time after the Consultant has completed this Agreement, the Consultant shall, upon execution by the City of Fort Lauderdale and the Consultant of an Amendment to this Agreement providing for compensation for such services, analyze the claim, engage in negotiations leading to settlement of the claim, and prepare and process the required documentation to close out the claim. Compensation for such services will be negotiated and effected through a Supplement to this Agreement.

13.0 CONTRADICTIONS:

In the event of a contradiction between the provisions of this Scope of Services and the Consultant's proposal as made a part of their Agreement, the provisions of the Scope of Services shall apply.



CEI Fee Proposal
 City of Fort Lauderdale
 SE 15th Avenue Bridge Replacement Project

Project Name SE 15th Avenue Bridge Replacement Project - P-10737
 Client City of Fort Lauderdale
 CEI Start Time 9/4/2012
 CEI End Time 7/31/2013
 Construction Duration 190 Work Days / 282 Calendar Days
 Calendar Months 11 Months

City of Ft. Lauderdale - SE 15th Avenue Bridge Replacement Project	2012				2013							MM	MH	Rate	Total Cost by Dollars
	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	June	July				
Name / Position															
David Romano - Sr. Project Engineer	0.075	0.075	0.075	0.075	0.075	0.075	0.075	0.075	0.075	0.075	0.075	0.8	136.125	\$148.00	\$20,146.50
Rafael Urdaneta - Project Administrator	0.5	0.9	0.9	0.9	0.9	0.9	0.9	0.9	0.9	0.9	0.9	9.5	1567.5	\$106.00	\$166,155.00
Stacy Sookdew-Sing Resident Compliance Specialist	0.4	0.4	0.4	0.4	0.4	0.4	0.4	0.4	0.4	0.4	1.0	4.96	818.4	\$70.00	\$57,288.00
Dalton Polanco - Sr. Bridge Inspector	0.5	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	0.5	10.0	1650	\$82.00	\$135,300.00
Joe Fitzgerald, - Sr. Bridge Inspector	0.5	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	0.5	10.0	1650	\$82.00	\$135,300.00
SubTotal	1.4	2.4	2.4	2.4	2.4	2.4	2.4	2.4	2.4	2.4	2.0	24.96	4118.4		\$514,189.50
Geotechnical Laboratory Testing Services (Tierra South Florida)															\$7,000.00
Surveying Services (Keith & Associates, Inc.)															\$6,000.00
Total															\$527,189.50

Notes:

1. The Senior Project Engineer will be committed and charging approximately 3 hours per week (i.e. 7.5%), and will be the project manager and lead engineer for the project.
2. The Project Administrator will be in charge of the day to day work operations, and committed full-time to the project (i.e. 35 to 40 hours per week).
3. The Resident Compliance Specialist will be committed approximately 40% to the project, which translates to 16 hours per week.
4. There will be two (2) Senior Bridge Inspectors committed fully on this project (i.e. 40 hours per week); One inspector assigned to each bridge during active construction operations.

EXHIBIT "B"

HOURLY BILLING RATES FOR ANY ADDITIONAL TASK ORDERS

R.J. BEHAR & COMPANY, INC.

Sr. Project Engineer	\$148.00 / Hr.
Project Administrator	\$106.00 / Hr.
Resident Compliance Specialist	\$70.00 / Hr.
Sr. Bridge Inspector	\$82.00 / Hr.