GEOTECHNICAL SERVICES FOR CANAL BANK STABILIZATION PROJECT & MISCELLANEOUS GEOTECHNICAL SERVICES

2015-09TC

MIAMI LAKES
Growing Beautifully

The Town of Miami Lakes Council:

Mayor Wayne Slaton
Vice Mayor Manny Cid
Councilmember Timothy Daubert
Councilmember Tony Lama
Councilmember Ceasar Mestre
Councilmember Frank Mingo
Councilmember Nelson Rodriguez

Alex Rey, Town Manager
The Town of Miami Lakes
6601 Main Street
Miami Lakes, Florida 33014

TABLE OF CONTENTS

SECTION/ARTICLE	TITLE	PAGE
Article A1	Definitions	4
Article A2	General Conditions	6
A2.01	Term	6
A2.02	Scope of Services	6
A2.03	Compensation	7
Article A3	Performance	7
A3.01	Performance and Delegation	7
A3.02	Removal of Unsatisfactory Personnel	7
A3.03	Consultant Key Staff	7
A3.04	Time for Performance	7
Article A4	E-Verify Requirements	8
Article A5	Standard of Care	8
Article A6	Subconsultants	8
A6.01	General	8
A6.02	Subconsultant Relationships	8
A6.03	Changes to Subconsultants	9
Article A7	Default	9
A7.01	General	9
A7.02	Conditions of Default	9
A7.03	Time To Cure Default; Force Majeure	9
Article A8	Termination Of Agreement	9
A8.01	Town's Right To Terminate	9
A8.02	Consultant's Right to Terminate	10
A8.03	Termination Due to Undisclosed Lobbyist or Agent	10
Article A9	Documents And Records	10
A9.01	Ownership of Documents	10
A9.02	Delivery Upon Request Or Cancellation	10
A9.03	Use by the Town	10
A9.04	Nondisclosure	11
A9.05	Maintenance of Records	11
Article A10	Indemnification	11
Article A11	Insurance	11
A11.01	Companies Providing Coverage	11
A11.02	Verification of Insurance Coverage	12
A11.03	Forms of Coverage	12
A11.04	Modifications To Coverage	12
Article A12	Miscellaneous	13
A12.01	Audit Rights	12
A12.02	Entire Agreement	13
A12.03	Successors and Assigns	13
A12.04	Truth-In-Negotiation Certification	13
A12.05	Applicable Law and Venue Of Litigation	13
A12.06	Notices	13
A12.07	Interpretation	14

A12.08 Joint Preparation 14
A12.09 Priority Of Provisions 14
A12.10 Mediation - Waiver of Jury Trial 14
A12.11 Time 15
A12.12 Compliance With Laws 15
A12.13 No Partnership 15
A12.14 Discretion of Town Manager 15
A12.15 Resolution of Disputes 15
A12.16 Contingency Clause 15
A12.17 Third Party eneficiary 15
A12.18 No Estoppel 15
Article B1 General 17
B1.01 Scope of Services 17
B1.02 Work Orders 19
Article B2 Basic Services 19
Article B3 Additional Services 20
Article B4 Reimbursable Expenses 20
B4.01 General 20
B4.02 Subconsultant Reimbursements 20
Article C1 Method of Compensation 21
C1.01 Compensation Limits 21
C1.02 Consultant Not To Exceed 21
Article C2 Wage Rates 21
C2.01 Fee Basis 21
C2.02 Employees & Job Classifications 21
C2.03 Multiplier 21
C2.04 Calculation 22
C2.05 Wage Rate Adjustments 22
Article C3 Computation of Fees & Compensation 22
C3.01 Lump Sum 22
C3.02 Consultant's Right to Terminate 23
C3.03 Reimbursable Expenses 23
C3.04 Fee For Additional Services 23
C3.05 Payment Exclusions 23
C3.06 Fees Resulting From Project Suspension 23
Article C4 Documents And Records 24
C4.01 Payments Generally 24
C4.02 Comprehensive Basic Services 24
C4.03 Billing-Hoiurly Rate 24
Article C5 Reimbursable Expenses 24
C5.01 General 24
C5.02 Reimbursements to Subconsultant 25
Form KS – Key Staff 28
SCHEDULE 1 - Subconsultants 29
SCHEDULE 2 - Wage Rates Summary 30
SCHEDULE 2A – Testing Fee Schedule 31
SCHEDULE 3 - Compensation Summary 33

This Agreement made this 31st day of **March** in the year **2015** ("Agreement") by and between the Town of Miami Lakes, Florida, hereinafter called the "Town," and Terracon Consultants, inc., hereinafter called the "Consultant."

RECITAL

A. The Town issued a Request for Qualifications ("RFQ") 2015-09 on November 13, 2014 for the provision of geotechnical services ("Services") for the Canal Bank Stabilization Project ("Project") and miscellaneous geotechnical services, and received Consultant's proposal ("Proposal") in response thereto, was selected as one of the most qualified for the provision of said Services. The RFQ and the Proposal are expressly incorporated into and made a part of this Agreement as if set forth in full.

B. WHEREAS, the Town, through action of the Town Manager or the Town Commission, as applicable, has selected the Consultant in accordance with Section 287.055, Florida Statutes, (Consultants' Competitive Negotiation Act), and the applicable provisions of the Town Procurement Ordinance, to provide the professional services as described herein.

WITNESSETH, that the Town and the Consultant, for the considerations herein set forth, agree as follows:

SECTION A GENERAL TERMS AND CONDITIONS

Article A1 Definitions

A1.01 ***Additional Services*** means any Work defined as such in this Agreement, secured in compliance with Florida Statutes and Town Code.

A1.02 ***Attachments*** mean the Attachments to this Agreement which are expressly incorporated by reference and made a part of this Agreement as if set forth in full.

A1.03 ***Base Fee*** means the amount of compensation mutually agreed upon for the completion of the Services under this Agreement.

A1.04 ***Basic Services*** means those services designated as such in a Work Order.

A1.05 ***Consultant*** means the individual, partnership, corporation, association or any combination thereof, of properly registered professional architects, or engineers, which has entered into the Agreement to provide professional services to the Town.

A1.06 ***Contractor*** means an individual, partnership, corporation, association, joint venture, or any combination thereof, which has entered into a contract with the Town for construction

A1.07 ***Errors*** means items in the plans, specification or other documents prepared by the Consultant that are shown incorrectly, which results in a change to the Services or results in the need for the construction contractor to perform rework or additional work or which causes a delay to the completion of construction.

A1.08 ***Errors and Omissions*** means design deficiencies in the plans, specification or other documents prepared by the Consultant, which must be corrected in order for the project to function or be built as intended.

A1.09 ***Final Acceptance*** means the acceptance of the plans, specification or other documents prepared by the Consultant by the Town, which will occur after the Town have reviewed the plans, specification or other documents and confirmed that the plans, specification or other documents incorporates all of the requirements of the Services and any comments previously provided by the Town.

A1.10 ***Inspector*** means an employee or representative of the Town assigned by the Town to make observations of work performed by a Contractor.

A1.11 ***Notice to Proceed*** means same as "Authorization to Proceed." A duly authorized written letter or directive issued by the Town Manager or Procurement Manager acknowledging that all conditions precedent have been met or directing that Consultant may begin performing the Services.

A1.12 ***Omissions*** means details of information are missing from the plans, specification or other documents prepared by the Consultant, which are necessary for the proper and safe completion of the Project.

A1.13 ***Project Manager*** means an employee or representative of the Town assigned by the Town Manager to manage and monitor the Services to be performed under this Agreement.

A1.14 ***Professional Services*** means those services within the scope of the practice of architecture, professional engineering, or registered surveying and mapping, as applicable, as defined by the laws of the State of Florida, or those performed by any architect, professional engineer, or registered surveyor or mapper in connection with his or her professional employment or practice. These services may be abbreviated herein as "architectural/ engineering services" or "professional services", as applicable, which are within this definition.

A1.15 ***Professional Services Agreement ("Agreement" or "PSA")*** means this Agreement and all attachments and any authorized amendments thereto. In the event of a conflict between the Request for Qualifications ("RFQ") and the Consultant's response thereto the RFQ will control. In the event of any conflict between the Consultant's response to the RFQ and this PSA, this PSA will control. In the event of any conflict between this PSA and its attachments this PSA will control.

A1.16 ***Project*** means the construction, alteration and/or repair, and all services and incidentals thereto, of a Town facility or property or other task/scope, as contemplated and budgeted by the Town. A Project will be further defined in the Scope of Services of any Work Order issued under the Agreement.

A1.16 ***Scope of Services or Services*** means a comprehensive description of the activities, tasks, design features, objectives, deliverables and milestones required for the completion of Project with sufficient detail to allow a reasonably accurate estimation of resources necessary for its completion.

A1.17 ***Subconsultant*** means a person or organization of properly registered professional architects, engineers, registered surveyor or mapper, or other professional specialty that has entered into a written agreement with the Consultant to furnish specified Services for work to be completed under the Agreement.

A1.18 ***Town Council*** means the legislative body of the Town of Miami Lakes.

A1.19 ***Town Manager*** means the duly appointed chief administrative officer of the Town of Miami Lakes or designee.

A1.20 ***Town or Owner*** means the Town of Miami Lakes, Florida, a Florida municipal corporation, the public agency which is a party hereto and for which this Agreement is to be performed. In all respects hereunder, Town's performance is pursuant to Town's position as the Owner of the Project. In the event the Town exercises its regulatory authority as a governmental body, the exercise of such regulatory authority and the enforcement of any rules, regulations, codes, laws and ordinances will be deemed to have occurred pursuant to Town's authority as a governmental body and will not be attributable in any manner to Town as a party to this Agreement. The Town of Miami will be referred to herein as "Town". For the purposes of this Agreement, "Town" without modification means the Town Manager.

A1.21 ***Wage Rates*** means the effective direct expense to Consultant on an hourly rate basis, for employees in the specified professions and job categories assigned to provide services under this Agreement that justify and form the basis for professional fees regardless of actual manner of compensation.

A1.22 ***Work Order*** means a document approved and issued by the Town authorizing the performance of specific Professional Services for a Project(s) or task(s) under this Agreement.

A1.23 ***Work Order Proposal*** means a document prepared by the Consultant, at the request of the Town for Services to be provided by the Consultant.

ARTICLE A2 General Conditions

A2.01 Term

The term of this Agreement shall be for three (3) years commencing on the effective date of the Agreement. The Agreement will remain in place until all Services issued in a Work Orders issued under the Agreement have been completed.

The Town, by action of the Town Manager, will have the option to extend the term for two (2) additional period(s) of one (1) year each, subject to continued satisfactory performance as determined by the Town Manager, and to the availability and appropriation of funds. Town Commission authorization of this Agreement includes delegation of authority to the Town Manager to administratively approve said extensions.

A2.02 Scope of Services

A2.02-1 General

Consultant agrees to provide the Services as specifically in the RFQ and the Consultant's Proposal, which may have been revised through negotiations between the Town and the Consultant, which are incorporated into this Agreement by reference.

A2.02-2 Canal Bank Stabilization Project

The Town will issue a Work Order under this Agreement for this Project. The timeframe for the completion of the Work and payment to the Consultant is June 30, 2015. The E-Verify requirements of the Agreement apply to this Project. The scope of work as stated in the RFQ, which is incorporated into and made a part of this Agreement.

A2.02-3 Miscellaneous Projects

Projects will be assigned in accordance with the Agreement with a Work Order being issued by the Town for each project or task on an as needed basis during the term of the Agreement.

A2.03 Compensation

A2.03-1 Compensation Limits

A2.03-1(a) Canal Bank Project
Compensation will be based on Schedule 2.

A2.03(b) Miscellaneous Projects
The amount of compensation payable by the Town to Consultant will generally be a lump sum payment or fixed fee, which will be set forth in each Work Order issued by the Town. Compensation will be based on the hourly or task rates established in the Agreement and calculated in accordance with Sections B of the Agreement

No specific value has been established for this Agreement as the work will be performed on an as needed basis.

A2.03-2 Payments
Payment will be made in accordance with Florida Statute Chapter 218, Part VII, Local Government Prompt Payment Act, after receipt of Consultant's invoice, after receipt of Consultant's invoice, which shall be accompanied by sufficient supporting documentation and contain sufficient detail, to allow a proper audit of expenditures, should Town require one to be performed. If Consultant is entitled to reimbursement of travel expenses, then all bills for travel expenses must be submitted in accordance with Section 112.061, Florida Statutes. Consultant must submit all requests for payment using the Town's standard Consultant Invoice form.

Article A3 Performance

A3.01 Performance and Delegation
The Services to be performed hereunder must be performed by the Consultant's own staff, unless otherwise provided in this Agreement, or approved, in writing by the Project Manager. Said approval will not be construed as constituting an agreement between the Town and said other person or firm and the Town assumes no liability or responsibility for any Subconsultant.

A3.02 Removal of Unsatisfactory Personnel
The Town Manager may make written request to Consultant for the prompt removal and replacement of any personnel employed or retained by the Consultant to provide and perform Services pursuant to the requirements of this Agreement. The Consultant must respond to the Town within seven (7) calendar days of receipt of such request with either the removal and replacement of such personnel or written justification as to why that may not occur. All decisions involving personnel will be made by the Town. Such request will solely relate to said employees work under this Agreement.

A3.03 Consultant Key Staff
The parties acknowledge that Consultant was selected by the Town, in part, on the basis of qualifications of particular staff identified in Consultant's response to Town's solicitation, hereinafter referred to as "Key Staff". Consultant must ensure that Key Staff are available for Services hereunder as long as said Key Staff is in Consultant's employ. Consultant must obtain prior written acceptance of Project Manager to change Key Staff. Consultant must provide the Project Manager with such information as necessary to determine the suitability of proposed new Key Staff. The Project Manager will act reasonably in evaluating Key Staff qualifications. Such acceptance will not constitute any responsibility or liability for the individual's ability to perform.

A3.04 Time for Performance
The Consultant agrees to start all Services hereunder upon receipt of a Notice to Proceed or signed Work Order issued by the Town Manager and to complete each assignment, task or phase within the

time stipulated in the Notice to Proceed or Work Order. Time is of the essence with respect to performance of this Agreement.

A reasonable extension of the time for completion of various assignments, tasks or phases may be granted by the Town Manager should there be a delay on the part of the Town in fulfilling its obligations under this Agreement as stated herein. Such extension of time shall not be cause for any claim by the Consultant for extra compensation.

Article A4 E-Verify Requirements

Consultant and all of its employees performing the Services must meet the requirements of the Department of Homeland Security E-Verify program while performing Services under this Agreement. Should the Consultant or any of its employees lose such status the Consultant must immediately notify the Project Manager in writing. Any employee loosing such status must be immediately cease performing any services until their status is corrected or they are replaced by the Consultant. Should the Consultant lose such status it will be in default of the Agreement as stated in Article A5 below.

Article A5 Standard of Care

Consultant is solely responsible for the technical accuracy and quality of its services. Consultant must perform all services in compliance with Florida Administrative Code Rule 61G15-19.001(4) and section 471.033(1)(g) of the Florida Statutes. Consultant must perform due diligence, in accordance with acceptable industry practices, which are consistent with the typical standards of care in the industry, in gather information and inspecting a project site prior to the commencement of the Services. Consultant will be responsible for the professional quality, technical accuracy and coordination of all reports, design, drawings, specification, and other Services furnished by the consultant under this Agreement. Consultant must, without additional compensation, correct or revise any errors, omissions, or deficiencies in its reports, designs, drawings, specification or other Services. Consultant will also be liable for claims for delay costs, and any increased costs in construction, including but not limited to additional work, demolition of existing work, rework, etc., resulting from any errors, omissions, or deficiencies in its reports, designs, drawings, specification or other Services.

Article A6 Subconsultants

A6.01 General

A6.01-1 A Subconsultant, as defined in Article A1.18, is a firm that was identified as part of the consulting team in the competitive selection process by which Consultant was chosen to perform the Services under this Agreement, and as such, is identified and listed in Schedule 1.

A6.01-2 A Specialty Subconsultant is a person or organization that has, with the consent of the Town Manager, entered into a written agreement with the Consultant to furnish unique or specialized professional services necessary for the Project(s) or task(s) described under Additional Services. Such Specialty Subconsultant will be in addition to those identified in Schedule 1.

A6.02 Subconsultant Relationships

A6.02-1 All Services provided by the Subconsultants must be performed pursuant to appropriate written agreements between the Consultant and the Subconsultants, which must contain provisions that preserve and protect the rights of the Town under this Agreement.

A6.02-2 Nothing contained in this Agreement creates any contractual or business relationship between the Town and any Subconsultants. The Consultant acknowledges that Subconsultants are entirely under its direction, control, supervision, retention or discharge.

A6.03 Changes to Subconsultants

The Consultant cannot add, modify, or change any Subconsultant listed in Schedule 1 without prior the written approval by the Town Manager, in response to a written request from the Consultant stating the reasons for any proposed substitution.

ARTICLE A7 Default

A7.01 General

If Consultant fails to comply with any term or condition of this Agreement, or fails to perform any of its obligations hereunder, then Consultant will be in default. Upon the occurrence of a default hereunder the Town, in addition to all remedies available to it by law, may immediately, upon written notice to Consultant, terminate this Agreement whereupon all payments, advances, or other compensation paid by the Town to Consultant while Consultant was in default must be immediately returned to the Town. Consultant understands and agrees that termination of this Agreement under this section does not release Consultant from any obligation accruing prior to the effective date of termination.

In the event of termination due to default, in addition to the foregoing, Consultant will be liable to the Town for actual and direct expenses incurred by the Town in preparing and negotiating this Agreement, as well as actual and direct costs and expenses incurred by the Town in the re-procurement of the Services. In the event of default, Town may also suspend or withhold reimbursements from Consultant until such time as the actions giving rise to default have been cured.

A7.02 Conditions of Default

A finding of default and subsequent termination for cause may include, without limitation, any of the following:

A7.02-1 Consultant fails to obtain or maintain the required insurance.

A7.02-2 Consultant fails to comply, in a substantial or material sense, with any of its duties under this Agreement, with any terms or conditions set forth in this Agreement or in any agreement it has with the Town, beyond the specified period allowed to cure such default.

A7.02-3 Consultant fails to commence the Services within the time provided or contemplated herein, or fails to complete the Services in a timely manner as required by this Agreement.

A7.03 Time To Cure Default; Force Majeure

Town through the Town Manager or designee will provide written notice to Consultant as to a finding of default, and Consultant must take all necessary action to cure said default within time stipulated in said notice, after which time the Town may terminate the Agreement. The Town, at its sole discretion, may allow additional days to perform any required cure if Consultant provides written justification deemed reasonably sufficient.

Should any such failure on the part of Consultant be due to a condition of Force Majeure as the term is interpreted under Florida Law, then the Town may allow an extension of time reasonably commensurate with the cause of such failure to perform or cure.

ARTICLE A8 Termination Of Agreement

A8.01 Town's Right To Terminate

The Town Manager has the right to terminate this Agreement for any reason or no reason, upon ten (10) days' written notice. Upon termination of this Agreement, all charts, sketches, studies, drawings, and other documents, including all electronic copies related to Services authorized under this Agreement, whether finished or not, must be turned over to the Town. The Consultant will be paid for the Services performed and accepted, provided that said documentation is turned over to Town Manager within ten

(10) business days of termination. Failure to timely deliver the documentation will be cause to withhold any payments due without recourse by Consultant until all documentation is delivered to the Town Manager or designee.

Consultant will have no recourse or remedy from a termination made by the Town except to retain the fees earned as compensation for the Services that was performed in complete compliance with this Agreement, as full and final settlement of any claim, action, demand, cost, charge or entitlement it may have, or will, have against the Town, its officials or employees.

A8.02 Consultant's Right to Terminate

Consultant will have the right to terminate this Agreement, in writing, following breach by the Town, if the breach of the Agreement has not been corrected within sixty (60) days from the date of the Town's receipt of a written statement from Consultant specifying its breach of its duties under this Agreement.

A8.03 Termination Due to Undisclosed Lobbyist or Agent

Consultant warrants that it has not employed or retained any company or person, other than a *bona* fide employee working solely for the Consultant to solicit or secure this Agreement and that he or she has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the Consultant any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement.

For the breach or violation of this provision, the Town has the right to terminate this Agreement without liability and, at its sole discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

Article A9 Documents and Records

A9.01 Ownership of Documents

All tracings, drawings, specifications, maps, computer files, reports and any other documents prepared or obtained under this Agreement, as well as all data collected, together with summaries and charts derived therefrom, including all electronic digital copies are considered works made for hire and will, based on incremental transfer wherein the above will become the property of the Town upon payments made to Consultant or termination of this Agreement, without restriction or limitation on their use, and will be made available, on request, to the Town at any time during the performance of the Services or upon completion or termination of this Agreement. Consultant must not copyright any material and products or patent any invention developed under this Agreement. The Town has the right to visit the site where the Services are being provided at any time. The Consultant will be permitted to retain copies, including reproducible copies, solely for information and reference in connection with the Town's use and occupancy of the Project.

A9.02 Delivery Upon Request or Cancellation

Failure of the Consultant to promptly deliver all such documents, both hard copy and digital, to the Town Manager within ten (10) days of cancellation, or within ten (10) days of request by the Town Manager, will be just cause for the Town Manager to withhold payment of any fees due Consultant until Consultant delivers all such documents. Consultant will have no recourse from these requirements.

A9.03 Use by the Town

It is understood that all Consultant agreements andWork Orders for new work will include the provision for the re-use of plans and specifications, including construction drawings, at the Town's sole option, and by virtue of signing this Agreement the Consultant agrees to such re-use in accordance with this provision without the necessity of further approvals, compensation, fees or documents being required and without recourse for such re-use. The Consultant will not be liable for re-use by the Town of plans, documents, studies, or other data for any purpose other than that intended by the terms and conditions of this Agreement.

A9.04 Nondisclosure

To the extent allowed by law, Consultant agrees not to divulge, furnish or make available to any third person, firm or organization, without Town Manager's prior written consent, or unless incident to the proper performance of the Consultant's obligations hereunder, or in the course of judicial or legislative proceedings where such information has been properly subpoenaed, any non-public information concerning the Services rendered by Consultant hereunder, and Consultant will require all of its employees and agents comply with the provisions of this paragraph.

A9.05 Maintenance of Records

Consultant will keep adequate records and supporting documentation, which concern or reflect its services hereunder. Records subject to the provisions of Public Record Law, Florida Statutes Chapter 119, must be kept in accordance with statute. Otherwise, the records and documentation will be retained by Consultant for a minimum of three (3) years from the date of termination of this Agreement or the date the Project is completed, whichever is later. Town, or any duly authorized agents or representatives of Town, has the right to audit, inspect, and copy all such records and documentation as often as they deem necessary during the period of this Agreement and during the three (3) year period noted above; provided, however such activity will be conducted only during normal business hours.

Upon completion of or termination of the Agreement the Consultant, as stated in Chapter 199.701 of the Florida Statutes, transfer, at no cost, to the Town all public records in possession of the Consultant related to the Agreement and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the Town in a format that is compatible with the information technology systems of the Town.

Article A10 Indemnification

The Consultant must hold harmless, indemnify and defend the Town, its officials and employees from any and all claims, losses and causes of actions which may arise out of the performance of this Agreement as a result of any act of negligence or negligent omission, recklessness, or intentionally wrongful conduct of the Consultant. The Consultant must pay all claims and losses of any nature whatsoever in connection therewith and will defend all project related suits, in the name of the Town when applicable, and must pay all costs, including without limitation reasonable attorney's and appellate attorney's fees, and judgments which may issue thereon. The Consultant's obligation under this paragraph will not be limited in any way by the agreed upon Agreement price, or the Consultant's limit of, or lack of, sufficient insurance protection, and will apply to the full extent that it is caused by the negligence, act, omission, recklessness or intentional wrongful conduct of the Consultant, its agents, servants, or representatives.

Article A11 Insurance

The Consultant must not start Services under this Agreement until the Consultant has obtained all insurance required hereunder and the Town has approved such insurance.

A11.01 Companies Providing Coverage

All insurance policies must be issued by companies authorized to do business under the laws of the State of Florida and satisfactory to the Town Manager. All companies must have a Florida resident agent and be rated at least A(X), as per A.M. Best Company's Key Rating Guide, latest edition.

A11.02 Verification of Insurance Coverage

The Consultant must furnish certificates of insurance to the Town Manager for review and approval prior to the execution of this Agreement. The Certificates must clearly indicate that the Consultant has obtained insurance of the type, amount and classification required by these provisions, in excess of any pending claims at the time of award to the Consultant. Consultant must maintain coverage with equal

or better rating as identified herein for the term of this Agreement. Consultant must provide written notice to the Town Manager of any material change, cancellation or notice of non-renewal of the insurance within 30 days of the change. Consultant must furnish a copy of the insurance policy or policies upon request of the Town Manager within ten (10) days of written request.

A11.03 Forms of Coverage

A11.03-1 Commercial General Liability and Automobile Liability

Consultant must maintain commercial general liability coverage with limits of at least $500,000 per occurrence, $1,000,000 aggregate for bodily injury and property damage. The coverage must include Premises and Operations, Contingent and Contractual Liability, and Products and Completed Operations, with additional endorsements, as applicable. Coverage must be written on a primary, non-contributory basis with the Town listed as an additional insured as reflected by endorsement CG 2010 11/85 or its equivalence. Notice of cancellation is read (30) days/(10) days for nonpayment.

A11.03-2 Business Automobile

The Consultant must provide business automobile liability coverage including coverage for all owned, hired and non-owned autos with a minimal combined single limit of $300,000 naming the Town as an additional insured with respect to this coverage. Notice of cancellation should read (30) days/(10) days for nonpayment.

A11.03-3 Professional Liability Insurance

The Consultant must maintain Professional Liability Insurance including Errors and Omissions coverage in the minimum amount of $500,000 per claim, $500,000 aggregate providing for all sums which the Consultant will be legally obligated to pay as damages for claims arising out of the Services performed by the Consultant or any person employed by the Consultant in connection with this Agreement. This insurance must be maintained for at least one year after completion of the construction and acceptance of the construction and acceptance of any project covered by this Agreement.

A11.03-4 Worker's Compensation Insurance

Consultant must maintain Worker's Compensation Insurance in compliance with Florida Statutes, Chapter 440, as amended, and Employee's Liability with a minimum limit of $500,000 each occurrence.

A11.03-5 Subconsultant's Compliance

The Consultant must ensure that all Sub-consultants comply with these same insurance requirements.

A11.04 Modifications to Coverage

The Town Manager reserves the right to require modifications, increases, or changes in the required insurance requirements, coverage, deductibles or other insurance obligations by providing a thirty (30) day written notice to the Consultant in accordance with Article 10.06 herein. Consultant must comply with such requests unless the insurance coverage is not then readily available in the national market, and may request additional consideration from Town accompanied by justification.

Article A12 Miscellaneous

A12.01 Audit Rights

The Town reserves the right to audit the Consultant's accounts during the performance of this Agreement and for three (3) years after final payment under this Agreement. The Consultant agrees to furnish copies of any records necessary, in the opinion of the Town Manager, to approve any requests for payment by the Consultant.

A12.02 Entire Agreement
This Agreement, as it may be amended from time to time, represents the entire and integrated Agreement between the Town and the Consultant and supersedes all prior negotiations, representations or agreements, written or oral. This Agreement may not be amended, changed, modified, or otherwise altered in any respect, at any time after the execution hereof, except by a written document executed in accordance with the requirements of the Agreement. Waiver by either party of a breach of any provision of this Agreement will not be deemed to be a waiver of any subsequent or other breach of any provision of this Agreement.

A12.03 Successors and Assigns
The performance of this Agreement must not be transferred pledged, sold, delegated or assigned, in whole or in part, by the Consultant without the written consent of the Town Council or Town Manager, as applicable. It is understood that a sale of the majority of the stock or partnership shares of the Consultant, a merger or bulk sale, an assignment for the benefit of creditors will each be deemed transactions that would constitute an assignment or sale hereunder requiring prior Town approval.

The Consultant's services are unique in nature and any transference without the prior written approval of the Town will be cause for the Town to terminate this Agreement. The Consultant will have no recourse from such cancellation. The Town may require bonding, other security, certified financial statements and tax returns from any proposed Assignee and the execution of an Assignment/Assumption Agreement in a form satisfactory to the Town as a condition precedent to considering approval of an assignment.

The Consultant and the Town each binds one another, their partners, successors, legal representatives and authorized assigns to the other party of this Agreement and to the partners, successors, legal representatives and assigns of such party in respect to all covenants of this Agreement.

A12.04 Truth-In-Negotiation Certification
In compliance with the Consultant's Competitive Negotiation Act, for any Project to be compensated under the Lump Sum method, the Consultant certifies that wage rates and other factual unit costs supporting the compensation are accurate, complete, and current at the time of Notice to Proceed. The original Project price and any addition thereto will be adjusted to exclude any significant sums by which the Town determines the project price was increased due to inaccurate, incomplete or non-current wage rates and other factual unit costs. All such price adjustments will be made within 1 year following the end of the Project.

A12.05 Applicable Law and Venue of Litigation
This Agreement will be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any suit or action brought by any party, concerning this Agreement, or arising out of this Agreement, must be brought in Miami-Dade County, Florida. Each party will bear its own attorney's fees except in actions arising out of Consultant's duties to indemnify the Town under Article A8, where Consultant must pay the Town's reasonable attorney's fees.

A12.06 Notices
Whenever either party desires to give written notice to the other relating to the Agreement, such must be addressed to the party for whom it is intended at the place specified below; and the place for giving the notice will remain until it has been changed by written notice in compliance with the provisions of this Article. Notice will be deemed given on the date received or within 3 days of mailing, if mailed through the United States Postal Service. Notice will be deemed given on the date sent via e-mail or facsimile. Notice will be deemed given via courier/delivery service upon the initial delivery date by the

courier/delivery service. For the present, the parties designate the following as the respective places for giving of notice:

For Town of Miami:
Alex Rey, Town Manager
6601 Main Street
Miami, Florida 33014
reya@miamilakes-fl.gov

With a copy to:
Gary Fabrikant, Procurement Manager
6601 Main Street
Miami, Florida 33014
fabrikantg@miamialkes-fl.gov

For Consultant:
Hugo E. Soto, P.E.
Principal
Terracon Consultants, Inc.
16200 NW 59th Avenue
Suite 106
Miami Lakes, Florida 33014
(305) 820-1997
hesoto@terracon.com

A12.07 Interpretation

The headings contained in this Agreement are for reference purposes only and will not affect in any way the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement include the other gender, and the singular include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein," "hereof," "hereunder," and "hereinafter" refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a Section or Article of this Agreement, such reference is to the Section or Article as a whole, including all of the subsections of such Section, unless the reference is made to a particular subsection or subparagraph of such Section or Article.

A12.08 Joint Preparation

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

A12.09 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 this Agreement will prevail over any document incorporated by reference and be given effect.

A12.10 Mediation - Waiver of Jury Trial

In an effort to engage in a cooperative effort to resolve conflict which may arise during the course of the performance of the Services, the parties to this Agreement agree all disputes between them will be submitted to non-binding mediation prior to the initiation of litigation, unless otherwise agreed in writing by the parties. A certified Mediator, who the parties find mutually acceptable, will conduct any Mediation Proceedings in Miami-Dade County, State of Florida. The parties will split the costs of a certified mediator on a 50/50 basis.

In an effort to expedite the conclusion of any litigation the parties voluntarily waive their right to jury trial or to file permissive counterclaims in any action arising under this Agreement.

A12.11 Time
Time is of the essence in this Agreement.

A12.12 Compliance with Laws
Consultant must comply with all applicable laws, codes, ordinances, rules, regulations and resolutions including, without limitation, the Americans with Disabilities Act ("ADA"), as amended, and all applicable guidelines and standards in performing its duties, responsibilities, and obligations related to this Agreement. The Consultant represents and warrants that there will be no unlawful discrimination as provided by law in connection with the performance of this Agreement.

A12.12-1 Non-Discrimination
Town warrants and represents that it does not and will not engage in discriminatory practices and that there will be no discrimination in connection with Consultant's performance under this Agreement on account of race, color, sex, religion, age, handicap, marital status or national origin. Consultant further covenants that no otherwise qualified individual will, solely by reason of his/her race, color, sex, religion, age, handicap, marital status or national origin, be excluded from participation in, be denied services, or be subject to discrimination under any provision of this Agreement.

A12.12- OSHA Compliance
The Consultant warrants that it will comply with all OSHA and other safety precautions as required by federal, state or local laws, rules, regulations and ordinances.

A12.12-3 ADA Compliance
Consultant will affirmatively comply with all applicable provisions of the Americans with Disabilities Act ("ADA") in the course of providing any work, labor or services funded by the Town, including Titles I & II of the ADA (regarding nondiscrimination on the basis of disability) and all applicable regulations, guidelines and standards. Additionally-the Consultant will take affirmative steps to insure nondiscrimination in employment of disabled persons.

A12.13 No Partnership
Consultant is an independent contractor. This Agreement does not create a joint venture, partnership or other business enterprise between the parties. The Consultant has no authority to bind the Town to any promise, debt, default, or undertaking of the Consultant.

A12.14 Discretion of Town Manager
Any matter not expressly provided for herein dealing with the Town or decisions of the Town will be within the exercise of the reasonable professional discretion of the Town Manager.

A12.15 Resolution of Disputes
Consultant understands and agrees that all disputes between it and the Town based upon an alleged violation of the terms of this Agreement by the Town will be submitted for resolution in the following manner.

The initial step will be for the Consultant to notify the Procurement Manager in writing of the dispute identified in Article A12.06, Notices. Consultant must, within five (5) calendar days of the initial notification, all supporting documentation to the Procurement Manager. Failure to submit such appeal of the written finding will constitute acceptance of the finding by the Consultant. Upon receipt of said documentation the Procurement Manager will review the issues relative to the dispute and issue a written finding.

Should the Consultant and the Procurement Manager fail to resolve the dispute the Consultant must submit their dispute in writing within five (5) calendar days to the Town Manager. Failure to submit

such appeal of the written finding will constitute acceptance of the finding by the Consultant. Upon receipt of said notification the Town Manager will review the issues relative to the dispute and issue a written finding.

Appeal to the Town Manager for his/her resolution, is required prior to Consultant being entitled to seek judicial relief in connection therewith. Should the amount of compensation require approval or disapproval by the Town Council, Consultant will not be entitled to seek judicial relief unless:

(i) it has first received Town Manager's written decision, approved by the Town Commission if applicable, or
(ii) a period of sixty (60) days has expired after submitting to the Town Manager a detailed statement of the dispute, accompanied by all supporting documentation, or a period of (90) days has expired where Town Manager's decision is subject to Town Commission approval; or
(iii) Town has waived compliance with the procedure set forth in this section by written instrument(s) signed by the Town Manager.

A12.16 Contingency Clause

Funding for this Agreement is contingent on the availability of funds and continued authorization for activities and the Agreement is subject to amendment or termination due to lack of funds, reduction of funds or change in regulations, upon thirty (30) days' notice.

A12.17 Third Party Beneficiary

Consultant and the Town agree that it is not intended that any provision of this Agreement establishes a third party beneficiary giving or allowing any claim or right of action whatsoever by any third party under this Agreement.

12.18 No Estoppel

Neither the Town's review, approval or acceptance of, or payment for Services performed under this Agreement will be construed to operate as a waiver of any rights under this Agreement of any cause of action arising out of the performance of this Agreement, and the Consultant will be and remain liable to the Town in accordance with applicable laws for all damages to the Town caused by the Consultant's negligent performance of any of the Services under this Agreement. The rights and remedies provided for under this Agreement are in addition to any other rights and remedies provided by law.

END OF SECTION

SECTION B SCOPE OF WORK

Article B1 General

The Consultant will provide all labor, materials, equipment, transportation, and other associated work for performing subsurface explorations, obtaining representative samples, testing, reporting, and performing all other geotechnical services. Consultant will provide comprehensive geotechnical services in accordance with Section 287.055 Florida Statutes, as amended, Consultants' Competitive Negotiations Act (CCNA).

The Consultant agrees to provide comprehensive Professional Services in accordance with all applicable laws, building and environmental regulations, including the Florida Building Code and the Town Code of Ordinances, and as may be further enumerated in a Work Order.

B1.01 Scope of Services

B1.01-1 Canal Bank Stabilization Project

B1.01(a) Overview

This specific area for this Project is approximately 10,000 linear feet of the Golden Glades and Peter's Pike canals along the north boundary of the Town (NW 170th Street) from NW 92nd Avenue to just south of NW 170th Street on NW 77th Court. The canal modifications and stabilization is proposed to occur on both sided of the canal banks. The canal bank erosion is widespread, occurring on Miami-Dade County property, adjacent to private properties, and nearby roadways. The erosion compromises the structural integrity of all of these facilities and can pose a danger to the public if slope failure or subsidence occurs. The Town has identified this Project as a critical endeavor to maintain a safe and effective canal system, reduce the amount of debris and vegetation entering the canals, and improve the flow of stormwater through the SFWMD C-8 primary canal system and Town lakes that interconnect with the canal system.

B1.01(b) Services to be Performed

Consultant will perform geotechnical testing within the Project limits identified above.

1. Subsurface Investigation and Engineering Inspection

   At a minmum the work must include:

   - Sunshine One Call must be contact prior to any drilling to mark-out locations of underground utilities.
   - All boring locations are to be reviewed with the Project Manager prior to drilling.
   - The subsurface investigation should include drilling land borings at accessible locations along both banks within the Project limits. The drilling must be performe in accordance with ASTM D1560.
   - Boring should be drilled using a mud-rotary drilling technique.
   - Standard Penetration Tests ("SPT") should be done continuously in the upper 10 feet of the boring and at 5-foot intervals below that depth. Additional SPT sampling may be necessary to verify subsurface conditions.
   - Spoon sampling should of the subsurface materials to allow viasual clarification to determine if laboratory testing is requied.

2. Design Services
   - Based on the profile provided by the Survey, which will be provided by the Town, and the engineering parameters developed from the boring information, Consultant will

perform slope stability analysis for representative bank profiles to evaluate existing canal cross-section to determine if the existing bank slopes meet the minimum required factor of safety recommended by regulatory agencies.

- Consultant will evaluate bank slope stabilization alternative and develop intermediate canal section alternatives for the Town to assess for cost effectiveness and constructability.
- Consultant will identify priorities from most to least critical so that the Town can prioritize the remediation work to be performed by a contractor.
- Consultant will provide a geotechnical study report summarizing the results of the subsurface conditions, the slope stability analysis, the evaluation of bank stabilization alternatives, and recommendations, including prioritization, for bank stabilization.

B1.01-2 Miscellaneous Projects

The Town will requires that the Services be performed on an as needed basis. The Town will request Work Order Proposals from the Consultant and issue Work Orders for individual Projects. A Scope of Services will be provided to the Consultant to develop a Work Order Proposal.

The Consultant must review the proposed Project information and requested Scope of Work indicated as a minimum level of services desired relative to the anticipated subsurface conditions present. If localized subsurface conditions are expected to vary significantly, Consultant shall advise Owner of additional recommended services prior to commencing work.

In general Geotechnical Services include, but are not limited to:

- Consultant must perform the standard penetration test (SPT) in accordance with ASTM Designation D 1586.
- In soil that is predominantly cohesive (silty clays, sandy clays, and material with adhesive binder), Consultant must use the thin-walled tube method for sampling in accordance with ASTM Designation D 1587.
- Rock coring must be performed in accordance with ASTM Designation D 2113.
- Double-ring infiltration test must be conducted in accordance with ASTM Designation D 5093.
- Laboratory tests will be assigned and performed by the Consultant to classify soils and obtain geotechnical physical characteristics such as strength, compressibility, swell potential, compaction characteristics, and chemical characteristics such as corrosiveness. Perform laboratory testing consistent in quantity and. quality with local geotechnical engineering practice to provide the required design parameters and recommendations. The quantity of tests to be performed will be dependent upon the type of soil and/or rock encountered during drilling and sampling with additional consideration of the foundation types that may be required to support the proposed structures.
- The Consultant must prepare a geotechnical engineering report containing a discussion of the proposed construction, previous construction activity and existing fill (if present), final boring logs, boring location plan, a description of the drilling and sampling program, a description of the geology and subsurface conditions encountered, groundwater conditions, laboratory test results, and foundation and earthwork/site work preparation recommendations and design parameters. If necessary the report will also address slope stability and excavations, excavation requirements, dewatering, pavement and roadway requirements per Miami-Dade County or FDOT specifications, and any other items deemed necessary.

- Borings must be backfilled to the original ground surface in accordance with all applicable local, state, and federal guidelines.

B1.02 Work Orders

When the Town Manager has determined that a specific phase of a Project or a Project is to proceed, the Town Manager will request in writing, a Work Order Proposal from the Consultant based on the proposed Scope of Services provided to the Consultant in writing by the Project Manager. The Consultant, the Project Manager, and others if appropriate, may have preliminary meetings, if warranted, to further define the Scope of Services and to resolve any questions. The Consultant will then prepare a Work Order Proposal following the format provided by or acceptable to the Town, indicating the proposed Scope of Services, total time for performance, time required for each task, phase or deliverable, staffing (including proposed hours per individual or classification, proposed fees, Subconsultants, and deliverable items or documents. The Town will provide the Consultant with a standardized Work Order Proposal Form to be used for all requests.

The Project Manager may accept the Work Order Proposal as submitted, reject the Work Order Proposal, or negotiate revisions to the Work Order Proposal. Upon successful conclusion of negotiations the Consultant may be required to submit a revised final Work Order Proposal. If negotiations cannot be successfully completed, the Town Manager may terminate negotiations and may request a Work Order Proposal from another consultant under contract with the Town, or secure such services through other means available to the Town. Upon approval of the Work Order Proposal the Town Manger will issue a written Work Order assigning the Project to the Consultant and issue a written Notice To Proceed to the Consultant.

It is understood that a Work Order or Notice to Proceed may be issued under this Agreement at the sole discretion of the Project Manager and that the Consultant has no expectation, entitlement, right to or privilege to receive a Work Order or Notice to Proceed for any Project or task. The Town reserves at all times the right to perform any or all Professional Services in-house, or with other private professional architects or engineers as provided by Section 287.055, Florida Statutes, as amended, (Consultants' Competitive Negotiation Act) or to discontinue or withdraw any or all Projects or tasks or to exercise any other choice allowed by law.

This Agreement does not confer on the Consultant any particular, exclusive or special rights to any Work required by the Town. Outside of this Agreement, the Town may request proposals or qualifications for any professional services which the Consultant is qualified to perform or utilize a consultant under another contract with the Town.

Article B2 Basic Services

Consultant agrees to provide complete geotechnical services as set forth in the approved Work Order, in accordance with the Florida Building Code, latest edition, all federal, state, county and Town, laws, codes and ordinances. Consultant shall maintain an adequate staff of qualified personnel on the Services at all times to ensure its performance as specified in the Agreement.

Consultant shall submit one (1) electronic set of all documents and three (3) full size copies of documents required under this RFQ, without additional charge, for review and approval by Town.

Consultant is solely responsible for the technical accuracy and quality of their Work. Consultant must perform the Services in compliance with Section 472.005 of the Florida Statutes. Consultant must perform due diligence, in accordance with acceptable practices industry, which are consistent with the typical standards of care in the industry. Consultant is also be responsible for the professional quality and technical accuracy of all Services furnished under this Agreement

Article B3 Additional Services

Services categorized below as "Additional Services" may be specified and authorized by Town and are normally considered to be beyond the scope of the Basic Services. Additional Services shall be authorized in a Work Order and will be compensated for as provided in Section C, Section C3.04.

Article B4 Reimbursable Expenses

B4.01 General

Reimbursable Expenses cover those services and items authorized by Town in addition to the Basic and Additional Services and consist of actual, direct expenditures made by Consultant and the Subconsultant for the purposes listed below. Transportation, travel and per diem expenses within Dade, Broward, or Palm Beach Counties shall not be considered as reimbursable expenses under this Agreement.

Additional Reimbursable Expenses include, but are not limited to:

B4.01-1 Reproduction, Photography

Cost of printing, reproduction or photography, beyond that which is required by or of Consultant's part of the work, set forth in this Agreement.

B4.01-2 Permit Fees

All permit fees, review fees and other similar fees paid to regulatory agencies for approvals directly attributable to the Project.

B4.01-3 Other

Items not indicated in Section 4.01 when authorized by the Project Manager.

The Town will reimburse the Consultant for authorized Reimbursable Expenses pursuant to the limitations of this Agreement as verified by supporting documentation deemed appropriate by Director or designee including, without limitation, detailed bills, itemized invoices and/or copies of cancelled checks.

B4.02 Subconsultant Reimbursements

Reimbursable Subconsultant expenses are limited to the items described above when the Subconsultant's agreement provides for reimbursable expenses and when such agreement has been previously approved, in writing, by the Town Manager and subject to all budgetary limitations of the Town and requirements of this Agreement.

END OF SECTION

SECTION C COMPENSATION AND PAYMENTS

Article C1 Method of Compensation

The fees for Professional Services for the Project and each Work Order will be determined by one of the following methods or a combination thereof, at the option of the Town Manager or designee, with the consent of the Consultant.

a) A Lump Sum, which may include not to exceed components in accordance with 0 below.
b) An Hourly Rate, in accordance with 0 below and at the rates set forth in the Agreement.

C1.01 Compensation Limits

The aggregate sum of all payments for fees and costs, including reimbursable expenses, to the Consultant payable by the Town under this Agreement will be the combined total amount specified in all of the Work Orders issued under this Agreement. Under no circumstances will the Town have any liability for work performed, or as otherwise may be alleged or claimed by Consultant, beyond the cumulative amount of the Work Orders.

C1.02 Consultant Not To Exceed

Absent an amendment to the Agreement or to any specific Work Order, any maximum dollar or percentage amounts stated for compensation must not be exceeded. In the event they are so exceeded, the Town will have no liability or responsibility for paying any amount of such excess, which will be at Consultant's own cost and expense.

Article C2 Wage Rates

C2.01 Fee Basis

All fees and compensation payable under this Agreement will be formulated and based upon the certified negotiated Wage Rates stated in Schedule 2 of the Agreement. Said Wage Rates are the effective direct hourly rates, as approved by the Town, of Consultant and Subconsultant employees in the specified professions and job categories that are to be utilized to provide the Services under this Agreement, regardless of manner of compensation.

Should the Consultant intend to utilize personnel or Subconsultants for a Project where the Wage Rates have not been established, the Consultant must request that the Town add the person or Subconsultant's wage rates to Schedule 2. The Town may require that the Consultant provide documentation substantiating the request.

C2.02 Employees and Job Classifications

Form KS identifies the professions, job categories or employees expected to be used during the term of this Agreement. These may include engineers, landscape architects, professional interns, designers, CADD technicians, project managers, GIS and environmental specialists, specification writers and others engaged in the Work. In determining compensation for a given Scope of Work, the Town reserves the right to recommend the use of Consultant employees at particular Wage Rate levels. Consultant must not include any profession, job category or employees in a Work Order Proposal that do not appear on Form KS. Consultant must submit a request to the Town to add such to Form KS prior to the submittal of any affected Work Order Proposal.

C2.03 Multiplier

For Work assigned under this Agreement, a maximum multiplier of 3.03 will apply to Consultant's hourly Wage Rates in calculating compensation payable by the Town. Should the Consultant have an approved multiplier with the State of Florida or Miami Dade County, the Town may elect to utilize either of these multipliers should they be less than above stipulated rates. Said multiplier is intended to cover Consultant's employee benefits (e.g. sick leave, vacation, holiday, unemployment taxes, retirement, medical, insurance and unemployment benefits) and Consultant's profit, and overhead including,

without limitation, office rent, local telephone and utility charges, office and drafting supplies, depreciation of equipment, professional dues, subscriptions, stenographic, administrative and clerical support, management and supervisory responsibilities, time or travel and subsistence not directly related to a Project. The multiplier will not be applied to the Principal, owner, or partner of the Consultant except where they are preparing drawings or specifications, preparing a study report, or similar tasks.

C2.04 Calculation

Said Wage Rates are to be utilized by Consultant in calculating compensation payable for Work Orders Proposals requested by Town. Consultant must identify job classifications, available staff and projected man-hours required for the proper completion of tasks or groups of tasks, milestones and deliverables identified in a request for a Work Order Proposal.

C2.05 Wage Rate Adjustments

The Consultant may request an adjustment to the Wage Rates on an annual basis. Such request may only be made where there has been an actual increase in a Wage Rate(s) by the Consultant. The Town may also adjust them where the Town Manager determines that extenuation circumstances exist. The maximum the Wage Rates depicted in Schedule 2 may be adjusted at the Consultant's request, and will be based on the Miami – Fort Lauderdale Consumer Price Index issued by the U.S. Department of Labor, Bureau of Labor Statistics. Such adjustment will be calculated by multiplying the ratio of the index in effect at that time divided by the previous year's index by the hourly rate entries in the Wage Rate Schedule to determine the adjusted Wage Rate Schedule. In no event will the Wage Rate increase by more than three percent (3%) in any one-year period.

Article C3 Computation of Fees and Compensation

The Town agrees to pay the Consultant, and the Consultant agrees to accept for Services rendered pursuant to this Agreement, fees computed by one or a combination of the methods outlined above, as applicable, in the following manner:

C3.01 Lump Sum

Compensation for a Scope of Work will generally be a Lump Sum, either a Fixed Fee or Not to Exceed Fee as deemed appropriate by the Town, to be mutually agreed upon in writing by the Town and the Consultant and stated in a Work Order. Lump Sum and Lump Sum not to Exceed methods of compensation are the preferred methods of compensation.

C3.01-1 **Lump Sum Fixed Fee**: will be the total amount of compensation to be paid to the Consultant for the Services performed on a specific Project, or phase or task under a Work Order. Payments to the Consultant will be based on a percentage of completion basis.

C3.01-3 **Lump Sum Not to Exceed Fee** will establish the maximum amount of compensation to be paid to the Consultant for the Services performed on a specific Project, or phase, or task under a Work Order. Payments to the Consultant will be based on the actual work effort required to complete the Project, phase or task.

C3.01-3 **Guaranteed Maximum Lump Sum**: will be the total maximum fee amount payable by Town wherein certain aspects, tasks or allowances may not be defined, quantified and calculated at the time of Work Order issuance. A Guaranteed Maximum Lump Sum compensation may represent a combination of Fixed Fees for professional services and not to exceed allowances for Reimbursable Expenses or Additional Services.

C3.01-4 **Lump Sum Fee Adjustment:** Where the Town authorizes a substantial or material change in the Scope of Work, the Lump Sum Base Fee may be equitably adjusted by mutually consent of the parties, which will be reflected in an amendment to the Work Order.

C3.01-6 Lump Sum Fees will I be calculated by Consultant utilizing the Wage Rates established in Schedule 2 of the Agreement.

C3.02 Hourly Rate Fees

C3.02-1 Hourly Rate Fees shall be those rates for Consultant and Subconsultant employees identified in Schedule 2 Wage Rates. All hourly rate fees will include a maximum not to exceed figure, inclusive of all costs expressed in the contract documents. The Town will have no liability for any fee, cost or expense above this figure.

Hourly Rate Fees will be used only in those instances where the parties agree that it is not possible to determine, define, quantify or calculate the complete nature, or aspects, tasks, man-hours, or milestones for a particular Project or portion thereof at the time of Work Order issuance. In such cases, the Town will establish an Allowance in the Work Order that will serve as a Not to Exceed Fee for the Work to be performed on an Hourly Rate Basis.

Consultant must maintain records acceptable to the Town to track the hours of work performed by each person.

C3.03 Reimbursable Expenses

Any fees for authorized reimbursable expenses shall not include charges for any expenses identified in Article C2.03, Multiplier. All reimbursable services must be billed to the Town at direct cost expended by the Consultant. Town authorized reproductions in excess of sets required at each phase of the Work will be a Reimbursable Expense.

The Town will reimburse the Consultant for authorized Reimbursable Expenses pursuant to the limitations of this Agreement as verified by supporting documentation deemed appropriate by Project Manager including, without limitation, detailed bills, itemized invoices and/or copies of cancelled checks.

C3.04 Fees for Additional Services

The Consultant may be authorized to perform Additional Services for which additional compensation or Reimbursable Expenses, as defined in this Agreement under Sections B4.02 may be applicable.

C3.04-1 Determination of Fee

The compensation for such Services will be one of the methods described herein: mutually agreed upon Lump Sum; Hourly Rate with a Not to Exceed Limit.

C3.04-2 Procedure and Compliance

An independent and detailed Work Order or an Amendment to a previously issued Work Order shall be required to be issued and signed by the Town Manager for each additional service requested by the Town. The Work Order will specify the fee for such service and upper limit of the fee, which will not be exceeded, and must comply with the Town's regulations, including the Purchasing Ordinance, the Consultant's Competitive Negotiation Act, and other applicable laws.

C3.05 Payment Exclusions

Consultant will not be compensated by Town for revisions or modifications to drawings and specifications, for extended construction administration, or for other work when such work is due to errors or omissions of Consultant as determined by Town.

C3.06 Fees Resulting From Project Suspension

If a Project is suspended for the convenience of the Town for more than three (3) months or terminated without any cause in whole or in part, during any Phase, the Consultant will be paid for services duly authorized, performed prior to such suspension or termination, together with the cost of authorized reimbursable services and expenses then due, and all appropriate, applicable, and documented

expenses resulting from such suspension or termination. If the Project is resumed after having been suspended for more than three months, the Consultant's further compensation will be subject to renegotiations.

Article C4 Payments to the Consultant

C4.01 Payments Generally
Payments for Basic Services may be requested monthly in proportion to Services performed during each Phase of the Work. Subconsultant fees and Reimbursable Expenses must be billed to the Town in the actual amount paid by Consultant. Consultant shall utilize the Town standard Consultant Invoice Form that will be provided to the Consultant and is available on the Town's website.

C4.02 Comprehensive Basic Services
For those Projects and Work Orders contain multiple phases or task, payments will not exceed the amount stipulated for each phase and the aggregate payment will not exceed the total value of the Work Order

C4.03 Billing – Hourly Rate
Invoices submitted by Consultant must be sufficiently detailed and accompanied by supporting documentation to allow for proper audit of expenditures. When Services are authorized on an Hourly Rate basis, the Consultant must submit for approval by the Project Manager, the required invoice, giving names, classification, salary rate per hour, hours worked and total charge for all personnel directly engaged on a Project, phase or task. , Reimbursable Services Cost should they be added to the sum for the total charges for the personnel. The Consultant must attach to the invoice all supporting data for payments made to and incurred by Subconsultants engaged on the Project. In addition to the invoice, the Consultant must, for Hourly Rate authorizations, submit a progress report giving an update on the completion of the Project or the applicable phase or task.

Article C5 Reimbursable Expenses

Article C5.01 General
Reimbursable Expenses are those items authorized by the Town outside of or in addition to the Scope of Work as identified in the Work Order (as Basic Services or Additional Services) and consist of actual expenditures made by the Consultant and the Consultant's Subconsultants for the following:

C5.01-1 Transportation
Identifiable transportation expenses in connection with the Project, subject to Section 112.061, Florida Statutes, as amended, excluding, however, all, general automobile transportation expenses within Miami-Dade, and Broward, and Palm Beach counties. Transportation expenses to locations outside the Miami-Dade-Broward-Palm Beach County area or from locations outside the Miami-Dade-Broward area will not be reimbursed unless specifically pre-authorized in writing by the Town Manager.

C5.01-2 Travel and Per Diem
Identifiable per diem, meals and lodging, lodging, taxi fares and miscellaneous travel-connected expenses for Consultant's personnel are subject to Section 112.061 Florida Statutes as amended. Meals for class C travel inside Miami-Dade or Broward County will not be reimbursed. Meals and lodging expenses will not be reimbursed for temporarily relocating Consultant's employees from one of Consultant's offices to another office if the employee is relocated for more than five (5) consecutive working days. Lodging will be reimbursed only for room rates equivalent to Holiday Inn, Howard Johnson or Ramada Inn. Travel, lodging or meals will not be reimbursed that result from travel within Miami-Dade, Broward or Palm Beach Counties. Travel and per diem expenses are subject to the prior approval of the Project Manager.

C5.01-3 Communication Expenses

Identifiable communication expenses approved, in writing and in advance by the Project Manager, including long distance telephone, courier and express mail between the Consultant's various permanent offices. Express mail or courier services are to be used only where there are significant time constraints and require the prior approval of the Project Manager.

C5.01-4 Reproduction, Photography

Cost of printing, reproduction or photography, which is required by or of Consultant to deliver services, in excess of the amounts set forth in this Agreement.

C5.01-5 Permit Fees

All Permit fees paid to regulatory agencies for approvals directly attributable to the Project. These permit fees do not include those permits required to be paid by the construction Contractor.

C5.02 Reimbursements to Subconsultants

Reimbursable Subconsultant expenses are limited to the items described above when the Subconsultant agreement provides for reimbursable expenses and when such agreement has been previously approved in writing by the Project Manager and subject to all budgetary limitations of the Town and requirements of the Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

WITNESS/ATTEST

Barbara L. Boerner

Signature

Barbara L. Boerner, Legal Asst.

Print Name, Title

Consultant, Terracon Consultants, Inc.

Signature

Donald J. Vrana, Executive Vice President

Print Name, Title of Authorized Officer or Official

ATTEST:

(Corporate Seal)

TERRACON CONSULTANTS, INC. CORPORATE SEAL 2003 DELAWARE

Consultant Secretary
(Affirm Consultant Seal, if available)

ATTEST:

Marjorie Tejeda, Town Clerk

Town of Miami Lakes, a municipal corporation of the State of Florida

Alex Rey, Town Manager

WITNESS/ATTEST

Approved as to legal form and correctness:

Town Attorney

CERTIFICATE OF AUTHORITY

(IF CORPORATION)

I HEREBY CERTIFY that at a meeting of the Board of Directors of Terracon Consultants, Inc., a corporation organized and existing under the laws of the State of Delaware, held on the 9th day of December, 2014, a resolution was duly passed and adopted authorizing (Name) Donald J. Vrana as (Title) Executive VP of the corporation to execute agreements on behalf of the corporation and providing that his/her execution thereof, attested by the secretary of the corporation, is the official act and deed of the corporation.

I further certify that said resolution remains in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand this 30th day of March, 20 15.

Secretary: _____

Print: E. Lynn Price

NOTARIZATION

STATE OF KANSAS)

) SS:

COUNTY OF JOHNSON)

The foregoing instrument was acknowledged before me this 30th day of March, 20 15, by E. LYNN PRICE, who is personally known to me or who has produced _____ as identification and who (did / did not) take an oath.

_____

SIGNATURE OF NOTARY PUBLIC

STATE OF ~~FLORIDA~~ KANSAS

CINDY J. CORNELL

PRINTED, STAMPED OR TYPED NAME OF NOTARY PUBLIC

OFFICIAL SEAL
CINDY J. CORNELL
MY COMMISSION EXPIRES 10-15-18

SECTION A – FORMS & SCHEDULES

Form KS – KEY STAFF

NAME	JOB CLASSIFICATION
Hugo Soto, P.E.	Principal
John Dimberly, P.E.	Principal
Rutugandha Nulkar, P.E.	Project Engineer/Project Manager/Planning
Jaime Velez, P.E.	Project Engineer/Project Manager/Planning
Armando Alvarez, P.E.	Project Engineer/Project Manager/Planning
Juan Ramirez, P.E.	Project Engineer/Project Manager/Planning
Thomas J. Tepper, P.E.	Senior Engineer
Kevin Aubry, P.E.	Senior Engineer
Brian DuChene, P.E.	Senior Engineer
Mike O'Conner, P.E.	Threshold Inspector
Daniel Grijaiba, E.I. CWI	Welding Inspector CWI/ Staff Engineer
Lou Hall	Registered Roofing Consultant
Eduard Tufo	Building and Roofing Inspector
Dan Marieni, E.I.	Staff Engineer
Michael Garcia	CADD Operator

SCHEDULE 1 - SUBCONSULTANTS

Name of Subconsultant	Services Provided
None	

SCHEDULE 2 - WAGE RATES SUMMARY

JOB CLASSIFICATION	BASE HOURLY RATE
Principal	$74.52
Project Engineer/Project Manager/Planning	$38.84
Senior Engineer	$55.01
Staff Engineer	$28.25
Threshold Inspector, P.E.	$55.29
Threshold Inspector Representative	$32.38
Welding Inspector, CWI	$55.29
Registered Roof Consultant	$47.55
CADD Operator	$30.02
Sr. Engineering Technician (CTQP Certified)	$19.68
Engineering Technician (Asphalt Plant CTQP Certified)	$21.00
Engineering Technician (Drilled Shaft CTQP Certified)	$21.30
Engineering Technician (ACI/CTQP Certified)	$17.55
Engineering Technician (Non-Certified)	$21.80
Building & Roofing Inspector	$37.88
Muck Probe, 2 man crew (staff)	$48.72

SCHEDULE 2A – TESTING FEE SCHEDULE

Task	U/M	Cost
Geotechnical Engineering & Construction Material Testing		
Drill Rig & Crew Mobilization/demobilization		
Truck Mounted Rig (includes cone truck)	EA	$364.00
Mudbug (not accessible to truck mounted equipment)	EA	$1,000.00
Standard Penetration Test & Split-Barrel Sampling of Soils (ASTM 1586) based on 5-foot sample intervals		
0 to 25 feet (0 to 10 nearly continuous)	LF	$14.00
26 to 50 feet	LF	$15.00
51 to 100 feet	LF	$20.00
101 to 200 feet	LF	$25.00
Furnish, Install & Remove Casing (3-inch diameter)		
0 to 50 feet	LF	$7.00
51 to 100 feet	LF	$8.00
101 to 200 feet	LF	$9.00
Furnish, Install & Remove Casing (6-inch diameter)		
0 to 50 feet	LF	$11.00
51 to 100 feet	LF	$12.00
101 to 200 feet	LF	$13.00
Soil Investigation & Sampling by Auger Boring (ASTM D1452)	LF	$12.00
Continuous Sampling-Extra Split Spoon		
0 to 50 feet	Sample	$40.00
51 to 100 feet	Sample	$50.00
101 to 200 feet	Sample	$60.00
Thin-Wall (Shelby Tube) 0-100ft depth (ASTM D1587)	Sample	$115.00
Rock Core Drilling & Sampling (4-inch with minimum 5-foot run(ASTM D2113)		
0 to 100 feet	LF	$60.00
101 to 200 feet	LF	$80.00
Borehole Grouting	LF	$8.00
Wash Boring	LF	$12.00
Auger Boring, 2 to 4 inch Flight Auger (0-100 feet)	LF	$12.00
Hand Auger Boring	LF	$15.00
GPR (Ground Penetrating Radar) (ASTM 6432)	Hour	$250.00
Field Drainage & Foundation Testing		
Field Permeability Tests-drill rig mobilization not included	Test	$375.00
Exfiltration Tests- drill rig mobilization not included-SFWMD Usual Condition Method	Test	$375.00
Double Ring Infiltrometer Test	Test	$500.00
Soil Restivity Test (ASTM G-57) Wenner Four-Electrode Method	Test	$50.00
Site Preparation Monitoring & Testing		
Mobilization for Coring-Stand Up Core Drill	EA	$250.00
Diamond Bit Usage Charge for Concrete Coring	Inch of Dia.	$10.00
Trimming, Measuring, Capping, Curing & Testing of Concrete Cores	Core	$75.00

Windsor Probe Charges (set of 3)	Set	$280.00
Site Preparation Monitoring & Testing		
In-Situ Tests-Nuclear Gauge Method (ASTM D 2922)	Hour	$49.00
In-Situ Tests-Sand Cone Method (ASTM D 1556)	Hour	$90.00
Static Cone Penetrometer Testing	Hour	$90.00
Soils Laboratory Services		
Trip Charge to Collect Samples	EA	$60.00
Soil Visual Classification Test (ATSM D 2488)	Hour	$28.25
Standard or Modified Proctor-moisture density relationships (ASTM D698 and D 1557) or (T-99 and T-180)	Test	$149.00
Limerock Bearing Ration (FM 5-515)	Test	$364.00
Laboratory California Bearing Ration, CBR (ASTM 1883)	Test	$354.00
In-Place Laboratory California Bearing Ration, CBR (ASTM 4429) Two Engineering Technicians	Hour	$21.80
Moisture Content (ASTM D 2216)	Test	$20.00
Organic Content (ASTM 2974)	Test	$52.00
Sieve Analysis (Complete) (ASTM D 6913)	Test	$65.00
Sieve Analysis (-200 only) (ASTM D 1140)	Test	$30.00
Unconfined Compression Test (soil) (ASTM D 1266)	Test	$125.00
Unconfined Compression Test (rock) (ASTM D 7012)	Test	$125.00
Preparation of samples for Consolidation, Permeability, or Strength Test	Sample	$100.00

Miscellaneous Notes

1. Charges in the event that scheduled field tests are cancelled and the Consultant was not notified at least 2 hours before the scheduled time will be in accordance with the appropriate labor classification category hourly rate for one individual. Includes travel time and incidentals.
2. Charges for standby time in the event that the contractors work is not ready for testing upon arrival of the Consultant will be in accordance with the appropriate labor classification category hourly rate. Standby time will commence 1 hour after the Consultant arrives at the test site for a scheduled test, and must be signed and verified by the Town' Inspector or Project Manager, and attached to the Consultant's invoice.

Mobilization charge of $150.00 per event will be paid in the event that tests are scheduled between 6:00 pm and 6:00 am, Monday through Friday. This mobilization charge also applies to weekends and holidays & includes travel time, all costs and incidentals.

Additional Test fee are included in Attachment C of the Agreement.

SCHEDULE 3 - COMPENSATION SUMMARY

CANAL BANK STABILIZATION PROJECT

The Consultant Project Proposal ("CPP") dated March 11, 2015, and as revised on March 26, 2015 is hereby incorporated into and made a part of this Agreement. Should any conflict exist between the CPP and the Agreement, the Agreement will prevail.

Refer to Work Order #1 for more details on the Canal Bank Stabilization Project.

Geotechnical Testing Services

PSA 2014-09TC

Terracon Consultants, Inc

Attachment C - GEOTECHNICAL TESTING SERVICES - ADDITIONAL SERVICES

Task	U/M	Cost
MONITORING WELLS (Includes Drilling)		
A. Mobilization of Truck-Mounted Drill Rig.	Up to 2 Wells per day	$364.00
B. Monitoring Well Installation (2" PVC, Max. 20' Depth)* (Min. 2 Wells)**	Per Well	$676.00
C. Monitoring Well Abandonment (2" PVC, Max. 20' Depth)* (Min. 2 Wells)**	Per Well	$283.92
D. Monitoring Well Abandonment (4" PVC, Max. 20' Depth)* (Min. 2 Wells)**	Per Well	$364.00
E. Monitoring Well (4" PVC, Max. 20' Depth)* (Min. 2 Wells)**	Per Well	$881.92
F. Monitoring Well Installation (2" PVC, Greater than 20' up to 100')*	Per Foot	$72.80
* Excludes Permit.	Per Well	
G. Boat Rental (Min. 8 Hour Day)	Per Day	$468.00
SOILS		
A. Carbonates on LBR Material	Per Test	$85.00
B. Los Angeles Abrasion on Rip-Rap per ASTM C-535 (Large Size Coarse Aggregate)	Per Test	$249.60
C. Soil Specific Gravity per ASTM D-854	Per Test	$62.40
D. Liquid Limit per ASTM D-4318 (Atterberg Limits)	Per Test	$78.00
E. Soil Chloride Test (FM S-552)	Per Test	$50.00
F. Soil Sulfate Test (FM S-553)	Per Test	$50.00
ASPHALT CONCRETE		
Asphalt Core Drilling for Thickness Measurements (Includes Asphalt Patching) (Min. 6 Cores per Call-Out).	Per Core	$62.40
Asphalt Cores Laboratory Tests for Measurements per ASTM D-3549 and Weight per Cubic Foot, per ASTM D-2726. (Min. 4 Cores)	Per Core	$46.80
CONCRETE TESTING		
Compresive Tests	Per Cylinder	$15.00
Flexural Test per ASTM C-78 (ASTM C-31, C-78) Cast per ASTM C-36 (Two beams required per test)	Per Beam	$124.80
FIRE PROOFING		
A. Inspection of Sprayed-On Fireproof Coating on Structural Steel.		
Laboratory Unit Weight Test of Fireproofing Coating per ASTM E-605	Per Test	$62.40
Field Adhesion / Cohesion Tests per ASTM E-736	Per Test	$126.88
ROOFING		
A. Built-Up Roof Sample Analysis (Test Method for Moisture in Mineral Aggregate used for Built-Up Roofs) (ASTM D-1864)	Per Test	$55.12
B. ASTM 3617	Per Test	$314.08
C. Absorption Test - Roof Tiles (Per Set of 5)	Per Set	$241.28
D. Up-lift Test of Roof Tiles (Per Set of 5)	Per Set	$291.20
E. Core Samples	Per Sample	$75.92
F. Visual Inspections		
Per Job Min.	Per Job Min.	$738.40
Per Square Foot (Min 10,000 Sq. Ft.)	Per Sq. Ft.	$0.17
G. Infrared Moisture Survey (Mobilization of Equipment)		
Per Job Min.	Per Job Min.	$821.60
Per Square Feet (Min 10,000 Sq. Ft.)	Per Sq. Ft.	$0.27
H. Asbestos Testing	Per Sample	$65.52
I. Nuclear Moisture Testing		
Per Job Min.	Per Job. Min	$780.00
Per Square Feet	Per Sq. Ft.	$0.22
J. Roof Moisture Survey (Max. 3 cores)		
Per Job Min.	Per Job. Min	$821.60
K. Bonded Pull Test	Per Test	$208.00
L. Fastener Pull Test (First 10,000 Sq. Ft. Per Deck) (10 Tests)	Per Test	$821.60
Per New Roof (Core Sample)	Per Test	$52.00
Existing Roof (Core Sample)	Per Test	$62.40
M. Bell Chamber Test (Max. 2 Tests / Any Additional Test $300.00)	Per Test	$780.00
N. Title Uplift Test (TAS 106)		
Per Square Feet (2,500 Sq. Ft.)	Per Sq. Ft.	$260.00
Additional per Square	Per Sq. Ft.	$20.80