



WORK ORDER

Contractor: ADA Engineering, Inc.		Work Order No.: 1
Contract No.: 2015-72	Contract Title: Design Services for Canal Bank Stabilization	
Project Manager: Gary Ratay		
Email: gary.ratay@kimley-horn.com		P.O. No.: TBD
Completion Date: See Below		Work Order Value: \$148,912.10

In accordance with the terms and conditions of your company's Contract with the Town, you are hereby authorized and instructed to proceed with the Work described below.

The Services under this Work Order must be provided consistent with the Work Order Proposal dated December 10, 2015, as amended by Schedule 1 of the above referenced contract.

All Work shall be paid for in accordance the Contract, unless otherwise approved in writing by the Town.

Town of Miami Lakes

Issued By: Alex Rey, Town Manager

Dept.: Town Manager's Office

Signature: 

Date Issued: 01/15/2016

**PROFESSIONAL SERVICES AGREEMENT
DESIGN SERVICES FOR THE
CANAL BANK STABILIZATION PROJECT**

PSA 2015-72



The Town of Miami Lakes Council:

Mayor Wayne Michael A. Pizzi, Jr.

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

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This Agreement made this 15 day of **January** in the year **2016** ("Agreement") by and between the Town of Miami Lakes, Florida, hereinafter called the "Town," and ADA Engineering, Inc., hereinafter called the "Consultant.", with its principal address located at 8550 NW 33rd Street, Suite 202, Doral, Florida 33122.

RECITAL

WHEREAS the Town issued a Request for Qualifications ("RFQ") 2015-72 on September 18, 2015 for the provision of Professional Services for design services("Services") for the Canal Bank Stabilization project ("Project") and 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.

WHEREAS the Town, through action of the Town Manager or the Town Council, 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.

NOW THEREFORE 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, not included in the Basic Services, secured in compliance with Florida Statutes and Town Code.
- A1.02 *Attachments*** mean the Attachments to this Agreement which may be incorporated into this Agreement 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 Basic Services.
- A1.04 *Basic Services*** means those services designated as such in a Section B.
- 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, or any combination thereof, which has entered into a contract with the Town for construction of Town facilities and incidentals thereto.
- A1.08 *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 and results in the need for the construction contractor to perform rework , additional work, or which causes a delay to the completion of construction.

- A1.09 *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.
- A1.10 *Inspector*** means an employee or representative of the Town assigned by the Town to make observations of work performed by a Contractor.
- A1.14 *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 and directing that Consultant may begin Work on a Project or a task under the Project.
- A1.12 *Omissions*** means items the plans, specification, or other documents prepared by the Consultant that are not shown or included which are necessary for the proper or safe operation of the Project or required to meet the Scope of Services.
- 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 and the construction of the Project as a direct representative of the Town.
- A1.14 *Project*** means the construction, alteration or repair, and all services and incidentals thereto, of a Town facility or property as contemplated and budgeted by the Town. A Project will be further defined in the Scope of Services under the Agreement.
- A1.15 *Professional Services*** means those services within the scope of the practice of professional architecture, engineering, or registered surveying and mapping, as applicable, as defined by the laws of the State of Florida, or those performed by any professional architect, 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.
- A1.17 *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.
- A1.18 *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 professional services for the Project.
- A1.19 *Town Council*** means the legislative body of the Town of Miami Lakes.
- A1.20 *Town Manager*** means the duly appointed chief administrative officer of the Town of Miami Lakes or designee.
- A1.21 *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.

A1.22 *Wage Rates* means the effective direct expense to Consultant or Subconsultant, 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.

A1.23 *Work Order* means a document approved and issued by the Town authorizing the performance of specific professional services for the Project.

A1.24 *Work Order Proposal* means a document prepared by the Consultant, at the request of the Town for Additional Services to be provided by the Consultant under the Project or for any additional phases of the Project.

Article A2 General Conditions

A2.01 Term

The term of this Agreement will be effective with the execution of the Agreement and terminate upon final payment being made to the Consultant.

A2.02 Scope of Services

Consultant agrees to provide the Services as specifically described and set forth in Section B and as supplemented in the Work Order(s) issued under this Agreement. The Project consists of multiple phases ("Phase"), with a Work Order to be issued by the Town for each Phase.

A2.03 Compensation

A2.03-1 Compensation Limits

The amount of compensation payable by the Town to Consultant will generally be a lump sum not to exceed fee, based on the rates and schedule established in Schedules 1 & 2; provided, however, that in no event will the amount of compensation exceed one hundred fifty three thousand nine hundred twelve dollars and ten cents (\$153,912.10) for the first Phase of the Services issued under Work Order #1, unless explicitly approved by action of the Town Council or Town Manager as applicable and put into effect by written amendment to this Agreement. The total value of compensation consists of \$148,912.10 for Work Order #1 plus \$5,000 for Additional Services, which the Town may authorize in accordance with the terms and conditions of the Agreement. The total value of the Agreement will not exceed the combined value of the Work Orders issued by the Town.

A2.03-2 Payments

Payments will be made in accordance with Florida Statute Chapter 218, Part VII, Local Government Prompt Payment Act, after receipt of Consultant's invoice, which must 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 utilize the Town's Standard Consultant invoice for the submission of all payments, which is available at http://miamilakes-fl.gov/index.php?option=com_content&view=article&id=149&Itemid=358.

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 advance, in writing by the Town's 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 Project Manager may make written request to Consultant for the prompt removal and replacement of any personnel employed or retained by the Consultant, or any Subconsultants or subcontractors, or any personnel of any such Subconsultants or subcontractors engaged by the Consultant to provide and perform Services pursuant to the requirements of this Agreement. The Consultant must respond to 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 will not occur. All decisions involving personnel will be made by Consultant. Such request will be solely relate to said employee's work under this Agreement.

A3.03 Performance Evaluation

Upon completion of the Services the Town will conduct an evaluation of the Contractor's performance based on the deliverables and tasks required under the Agreement.

A3.03 Consultant's 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 to provide Services hereunder as long as said Key Staff are in Consultant's employ. Consultant will 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 an executed Work Order signed by the Town Manager and to complete each assignment, task or phase within the time stipulated in the Work Order. This Project is grant funded and time is of the essence with respect to performance of the Services under this Agreement. The Consultant must complete 100% permitted design documents for Work Order #1 (Phase I) within nine (9) months of the issuance of the Work Order.

A reasonable extension of the time for completion of various assignments, tasks or phases may be granted by the Project 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 will not be cause for any claim by the Consultant for extra compensation.

A3.05 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 best industry practices, in gather information and inspecting a Project site prior to the commencement of design. Consultant is responsible for the professional quality, technical accuracy and coordination of all 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 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 designs, drawings, specification or other Services.

Article A4 Subconsultants

A4.01 General

- A4.01-1 A Subconsultant, as defined in Article A1.18, and included in Schedule SC, is a firm that was identified as part of the consulting team in its response to the RFQ, under which Consultant was chosen to perform the Services under this Agreement.
- A4.01-2 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 or task described under Additional Services. Such Specialty Subconsultant will be in addition to those identified in Schedule SC.

A4.02 Subconsultant Relationships

- A4.02-1 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. The terms and conditions of this Agreement are to be incorporated into and become part of any agreement between the Consultant and Subconsultants.
- A4.02-2 Nothing contained in this Agreement creates any contractual or business relationship between the Town and the Subconsultants. The Consultant acknowledges that Subconsultants are entirely under its direction, control, supervision, retention and discharge.

A4.03 Changes to Subconsultants

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

Article A5 Default

A5.01 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 will 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 all expenses incurred by the Town in preparing and negotiating this Agreement, as well as all costs and expenses incurred by the Town in the re-procurement of the Services, including consequential and incidental damages. 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.

A5.02 Conditions of Default

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

- A5.02-1 Consultant fails to obtain or maintain the required insurance.
- A5.02-2 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.

A5.02-3 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.

A5.03 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 the 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, then the Town may allow an extension of time reasonably commensurate with the cause of such failure to perform or cure.

Article A6 Termination of Agreement

A6.01 Town's Right To Terminate

The Town, including 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 Manager. The Consultant will be paid in accordance with provisions of Section C, 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.

A6.01-1 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 were 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.

A6.02 Consultant's Right to Terminate

The Consultant has 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 the Town's breach of its duties under this Agreement.

A6.03 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 will have the right to terminate this Agreement without liability and, at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

Article A7 Documents And Records

A7.01 Ownership of Documents

All tracings, plans, drawings, specifications, maps, computer files, and reports prepared or obtained under this Agreement, as well as all data collected, together with summaries and charts derived

therefrom, including all electronic digital copies will be 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 Town at any time during the performance of such 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 and its agents and representatives will have the right to visit the site for inspection of the Services and the products of Consultant at any time. The Consultant is permitted to retain copies, including reproducible copies, solely for information and reference in connection with the Town's use and occupancy of the Project.

A7.02 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.

A7.03 Reuse by the Town

It is understood that this Agreement and any subsequent Work Orders for Services issued hereunder includes the provision for the re-use of plans and specifications, including construction drawings, specifications, and any other documents provided under this Agreement. By virtue of signing this Agreement 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, specifications, documents, studies, or other data for any purpose other than that intended by the terms and conditions of this Agreement.

A7.04 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 to be rendered by Consultant hereunder, and Consultant must require all of its employees, agents, Subconsultants and subcontractors to comply with the provisions of this paragraph.

A7.05 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 five (5) 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, will have 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 five (5) year period noted above; provided, however such activity will be conducted only during normal business hours. The authorized agents and representatives of the Town include representatives of the grant agency, including, but not limited to the FDOT, FHWA, OIG, etc.

Upon termination by the Town or final completion of the Agreement the Consultant must, in accordance with Section 119.0701 of the Florida Statutes, transfer to the Town, at no cost, all public records in possession of the Consultant and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All public record stored electronically must be

provided in .pdf format or another format acceptable to the Town. Any payments due the Consultant will not be made until the Town receives the public records.

The Consultant must comply with the applicable provisions of Chapter 119, Florida Statutes and Town will have the right to immediately terminate this Agreement for the refusal by the Consultant to comply with Chapter 119, Florida Statutes.

Article A8 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 or the Subconsultants. The Consultant must pay all claims and losses of any nature whatsoever in connection therewith and must 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 contract 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 Consultants, its agents, servants, or representatives.

Article A9 Insurance

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

A9.01 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.

A9.02 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 and/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.

A9.03 Forms of Coverage

A9.03-1 Commercial General Liability and Automobile Liability

The Consultant must maintain commercial general liability coverage with limits of at least \$1,000,000 per occurrence, \$2,000,000 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. The coverage must be written on a primary and 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 should read (30) days/(10) days for nonpayment.

A9.03-2 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 \$1,000,000 naming the Town as an additional insured with respect to this coverage. Notice of cancellation should read (30) days/(10) days for nonpayment.

A9.03-3 Professional Liability Insurance

The Consultant must maintain Professional Liability Insurance including Errors and Omissions coverage in the minimum amount of \$1,000,000 per claim, \$1,00,000 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 any project covered by this Agreement.

A9.04-4 Excess Liability Insurance

Contractor must provide a \$1,000,000, per occurrence, coverage with a \$1,000,000 aggregate limit. The policy must provide excess coverage on CGL, Business Automobile, and Employer's liability.

A9.03-4 Worker's Compensation Insurance

The 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.

A9.03-4 Subconsultant Compliance

Consultant must ensure that all Subconsultants comply with these same insurance requirements.

A9.04 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 A10 Miscellaneous**A10.01 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.

A10.02 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 with the same formality and equal dignity herewith. Waiver by either party of a breach of any provision of this Agreement will not be deemed to be a waiver of any other breach of any provision of this Agreement.

A10.03 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.

A10.04 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 execution of the Agreement. The original Project value and any addition thereto will be adjusted to exclude any significant sums by which the Town determines the Project value 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.

A10.05 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 Section A8 where Consultant must pay the Town's reasonable attorney's fees.

A10.06 Notices

Whenever either party desires to give notice unto the other, such notice must be in writing, sent by registered United States mail, return receipt requested, addressed to the party for whom it is intended at the place last specified; and the place for giving of notice will remain such until it has been changed by written 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:

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

For Consultant:
 Alex Vazquez

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

Vice President/Project Manager
 ADA Engineering, Inc.
 8550 NW 33rd Street
 Suite 202
 Doral, Florida 33122
 avazquez@adaeng.net
 (305) 551-4608

A10.07 Interpretation

The language of this Agreement has been agreed to by both parties to express their mutual intent and no rule of strict construction will be applied against either party hereto. 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 will 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 or Article, unless the reference is made to a particular subsection or subparagraph of such Section or Article.

A10.08 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.

A10.09 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 and be given effect.

A10.10 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 design or construction of the Project, or following the completion of the Project, the both parties 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. The Consultant agrees to include such similar contract provisions with all Subconsultants or independent contractors retained for the Project, thereby providing for non-binding mediation as the primary mechanism for dispute resolution.

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.

A10.11 Time

Time is of the essence in this Agreement.

A10.12 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.

A10.12-1 Non-Discrimination

Consultant 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 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.

A10.12-2 OSHA Compliance

The Consultant warrants that it will comply with all safety precautions as required by federal, state or local laws, rules, regulations and ordinances. The Town reserves the right to refuse Consultant access to Town property, including project jobsites, if Consultant employees are not properly equipped with safety gear in accordance with OSHA regulations or if a continuing pattern of non-compliance with safety regulations is exhibited by Consultant.

A10.12-3 ADA Compliance

Consultant must 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 must take affirmative steps to-insure nondiscrimination in employment of disabled persons.

A10.13 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.

A10.14 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.

A10.15 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 that cannot be resolved with the Project Manager will be submitted for resolution in the following manner.

The initial step will be for the Consultant to notify the Town's Procurement Manager in writing of the dispute identified in Article A10.06, Notices. Consultant must, within five (5) calendar days of the initial notification, all supporting documentation to the Procurement Manager. Failure to submit the documentation within the five (5) calendar days will be consider by the Town that the Consultant has withdrawn its dispute. Upon receipt of said documentation the Procurement Manager will review the issues relative to the dispute and issue a written finding. The Procurement Manager may hold meetings or obtain additional information as deemed necessary to issue a written finding.

Should the Consultant and the Procurement Manager fail to resolve the dispute the Consultant, if it elects to appeal, must submit their appeal 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. The Town Manager will base his decision on the documentation submitted to or obtained by the Procurement Manager. No additional information or documentation will be considered.

Appeal to the Town Manager for his 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.

A10.16 Contingency Clause

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

A10.17 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.

A10.18 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 remains 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.

Where the Consultant is comprised of more than one legal entity, each such entity will be jointly and severally liable under this Agreement.

A10.19 E-Verify

Consultant must comply with the requirements of the U.S Department of Homeland Security's E-Verify requirements for all individual performing any of the Services under the Agreement. The requirements and access to the E-Verify system can be found at http://www.dhs.gov/files/programs/gc_1185221678150.shtm. Consultant and its staff must maintain its compliance with the E-Verify requirements during the term of this Agreement. Where the Consultant adds or replaces any staff under this Agreement the Consultant must submit, prior to the addition or replacement of the staff person, documentation from Homeland Security demonstrating that the individual meets the E-Verify requirements.

END OF SECTION

SECTION B SCOPE OF WORK

Article B1 General

Consultant must provide comprehensive Civil Engineering services necessary for completion of the Project, in accordance with the Agreement, for which Consultant was selected in accordance with Section 287.055 Florida Statutes, as amended, Consultants' Competitive Negotiations Act (CCNA).

B1.01 Scope of Services

The Consultant agrees to provide comprehensive Professional Services in accordance with all applicable laws and regulations, including all applicable environmental regulations, the Town of Miami Lakes, Florida code of Ordinances, and as set forth in this Agreement. Consultant must perform the Services presented in this Agreement. Consultant must furnish, as Basic Services, comprehensive Professional Services for the Project including, but not limited to those describes in Section B2, Basic Services.

B1.02 Maximum Cost Limit

Prior to authorizing the Consultant to proceed with the commencement of the Basic Services, the Town will notify the Consultant of the maximum for the cost of construction of the Project ("Maximum Cost Limit"). Consultant, if necessary, at no cost to the Town will make revisions to the drawings to maintain the cost of construction within the Maximum Cost Limit.

Article B2 Basic Services

The Basic Services of this Agreement include the Services as defined below.

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

Of the five (5) copies to be provided, the Consultant must submit three (3) full size copies of the drawings and specifications, two (2) copies in 11"X17" format, and one digital copy in .pdf, .dwg & plot formats.

Consultant will not proceed with the next task of the Services until the documents have been reviewed and accepted, in writing, by the Town, and a Notice to Proceed with the next phase or task has been issued by the Project Manager.

B2.01 Project Development

Consultant must confer with representatives of Town, the assigned Town representative (Town's Project Manager), and other jurisdictional agencies to develop multiple options for how the various elements of the Project will be designed and constructed based on the Geotechnical report by Terracon Consultants, Inc., dated August 2015 and the survey, prepared by Robayna and Associates, Inc., dated August 2015. Consultant will also conduct its own visual inspection(s). At a minimum the multiple options must include those identified in the Geotechnical Report, unless the Consultant clearly details why one of the options is not viable. Additional options may be based on the Consultant's observations and review.

Based on these documents and its own observations Consultant will provide the Town an analysis that at a minimum includes

- The proposed phasing of the Project based on addressing the most critical locations first and the availability of funding. Based on available funding, if not sufficient to complete all of the identified areas, the Consultant will provide the phasing and approach for the additional areas.

- Options, inclusive of costs and timeframes for design and construction, together with its recommended course of action based on the options contained in the Geotechnical report and the Consultant's own observations.
 - Every effort is to be made to design a project that minimizes the impact to the property owner's property.
 - The Town expects that the majority of the construction work will be performed water side in an effort to minimize the impact to the property owners. Where this is not possible Consultant must provide the basis for requiring the construction work to be performed from the land side.
 - The cost must include a brief description of the basis for the estimate for each approach and a projected average cost per property. The projected costs should represent a reasonable estimate of cost in Consultant's best judgment as a professional familiar with the local construction industry. Should the recommended course of action be different than that included in its response to the RFQ the Consultant will provide the rationale for the change in approach.
 - The schedules should base the timeframes and the proposed phased approach and reflect the proposed completion date of each phase of the Project through design, bidding, and post design services.

Consultant will consult with the applicable regulatory agencies as necessary in the preparation of its recommendation to determine their impact and requirements on the Consultant's analysis and recommendation.

Consultant will meet with the Project Manager and other Town representatives to present and review its recommendation. Consultant will make any necessary adjustments or revisions to its analysis and recommendation based on the input of the Town.

Upon acceptance of the Consultant's recommendation the Project Manager will issue a Notice to Proceed with the Design Development Task.

B2.02 Construction Documents

From the approved Project Development, Consultant will prepare for written approval by the Town, Final Construction Documents setting forth all design drawings and specifications needed to comprise a fully biddable, permittable, constructible Project. Final Construction Documents ("Permit Set") are defined as the set of drawings approved by all regulatory agencies and the Town.

Consultant must produce 30%, , 90% for review and approval by Town, which must include the following:

1. A drawing cover sheet listing an index of all number of drawings by each discipline. Drawings not included in the, 60%, 90% and 100% review must be noted. Consultant must attach an index of all anticipated drawing sheets necessary to fully define the Project.
2. The updated Project Development Schedule to include an outline of major construction milestone activities and the recommended construction duration period in calendar days.
3. An updated Statement of Probable Construction Cost in MS Excel, with a breakdown of the major components of the work.
4. Consultant may also be authorized to include in the Bid Set approved additive or deductive alternate bid items.
5. A Project Specifications index and Project Manual, if applicable with at least 30% and 90% and Final of the Specifications completed, if required by the Project Manager.

6. Consultant must include, and will be paid for; Town-requested alternates outside of the established Project scope or that are designed but are not constructed due to a lack of funds. No fee will be paid by Town in connection with alternates required by the failure of Consultant to design the Project within the Maximum Cost Limit.
7. Consultant must provide an index of all submittals required by the Contractor that clearly identifies submittals for which the Contractor will be responsible for design. This index will be included as part of the construction solicitation
8. Consultant must use the Town's standard General Notes, which will be provided by the Project Manager. The notes are not to contain any contractual terms and conditions that are contained in the Contract Documents. The Project Manager will provide the Consultant with a copy of the Town's standard contract terms and conditions.
9. Consultant must submit any special or supplemental terms and conditions, it wants included in the construction solicitation documents, separate from the technical specifications. The Town's Project Manager will review these in conjunction with the Town's Procurement Manager to determine if they will be included in the construction solicitation documents.
10. Consultant must not proceed with each set of construction document ("Documents") development until a full review response of each set of Documents is provided by the Project Manager to the Consultant. Approval by Town will be for progress only and does not relieve Consultant of its responsibilities and liabilities relative to code compliance and to other covenants contained in this Agreement. Consultant must resolve all questions indicated on the documents and make all changes to the documents necessary in response to the review commentary. The 30% Documents review ("Check Set") must be returned to Town upon submission of 60% Documents. The 60% Documents Check Set must be returned to Town upon submission of 90%. The 90% Check Set must be returned when the Drawings are submitted for Dry Run Permitting.

Upon completion of reviews and approvals by all regulatory agencies and the Town the Consultant must provide the Town with the Permit Set.

B2.03 Dry Run Permitting

The Consultant must file and follow-up for all required permits at the earliest practicable time during the performance of the Services, the necessary portions of the Construction Documents for approval by Town, County, State and Federal authorities having jurisdiction over the Project by law or contract with the Town, and must obtain any such applicable certifications of permit approval by such authorities. The Consultant must promptly, at any time during the performance of the Work hereunder, advise the Town of any substantial increases in costs set forth in the Statement of Probable Construction Cost that in the opinion of the Consultant is caused by the requirement(s) of any permitting entities.

Upon completion of dry run permitting Consultant must provide three (3) full size sealed copies of the drawings and specifications, if prepared separately. Consultant must also provide digital versions of the Permit Set in .dwg, .plt, and .pdf formats. The specifications, and any additional terms and conditions must be provided in both .pdf and .doc formats.

B2.04 Bidding and Award of Contract

B2.04-1 Bid Documents Approvals and Printing

Upon obtaining all necessary approvals of the Construction Documents, from authorities having jurisdiction, acceptance by the Town of the Permit Set and latest Statement of Probable Construction Cost, the Consultant will assist the Town in obtaining bids, and evaluating and

awarding the construction contract, if required. The Town, for bidding purposes, will have the bid documents printed.

B2.04-2 Issuance of Bid Documents, Addenda and Bid Opening

- a. The Consultant will provide the Project Manager a bid form that contains the bid line items, estimated quantities, and the units of measure.
- b. The Consultant will provide the Project Manager the number of days required for the Contractor to achieve Substantial Completion.
- c. The Town will issue the bid documents to prospective bidders.
- d. The Consultant must assist the Town in the preparation of responses to questions if any are required during the bidding period. All addendum or clarifications, or responses will be issued by the Town.
- e. The Consultant will prepare revised plans, at no cost to the Town, if any are required, for the Town to issue to all prospective bidders.
- f. The Town will schedule a "Pre-Bid Meeting" on an as needed basis, for the Project. The Consultant may be required to attend any pre-bid meeting(s) together with its Subconsultants if necessary.

B2.04-3 Bid Evaluation and Award

The Consultant may assist the Town in evaluation of bids. If the lowest responsive Bid received exceeds the total allocated funds for construction, the Town may:

1. Approve an increase in the Project cost and award a Contract;
2. Reject all bids and re-bid the Project within a reasonable time with no change in the Project, or additional compensation to the Consultant;
3. Direct the Consultant to revise the scope and quality of construction, and rebid the Project. The Consultant will, without additional compensation, modify the Construction Documents as necessary to bring the Probable Construction Cost based on such revisions within the total authorized construction budget. The Town may exercise such option where the bid price exceeds 10% of the Maximum Cost Limit provided to the Consultant and as may be modified by the Town and the Consultant prior to soliciting bids.
4. Suspend, cancel or abandon the Project.

NOTE: Under item three (3.) above the Consultant will, without additional compensation, modify the Construction Documents as necessary to bring the Probable Construction Cost within the budgeted amount.

B2.05 Administration of the Construction Contract

B2.05-1

The Construction Phase will begin with the award of the construction contract and will end when the Contractor has provided to the Town all post construction documents, including Contractor As-Built drawings, Record Drawings, warranties, guarantees, operational manuals, and Certificate(s) of Occupancy or Completion, as applicable, have been delivered to the Town and the Town approves the final payment to the Consultant. During this period, the Consultant must provide administration of the construction contract as provided by this Agreement, and as provided by law.

B2.05-2

The Consultant, as the representative of the Town during the Construction Phase, will advise and consult with the Town and have the authority to act on behalf of the Town to the extent provided in the terms and conditions of the construction contract and their Agreement with the Town.

B2.05-3

The Consultant must visit the Project site to conduct field observations, at a minimum on a weekly basis, to ascertain the progress of the Project and must visit the site as appropriate to conduct field inspections to ascertain the progress of the Project and determine, in general, if the work is proceeding in accordance with the Contract Documents. The Consultant must provide any site visits necessary for certification, if required, by the authorities having jurisdiction. The Consultant will report on the progress the Work, including any defects and deficiencies that may be observed in the work. The Consultant will not be required to make extensive inspections or provide continuous daily on-site inspections to check the quality or quantity of the work. The Consultant will be responsible for writing minutes of all meetings and field inspections report it is asked to attend, as well as the distribution of the minutes, except for construction progress meetings, which are the responsibility of the construction contractor. Consultant and will not be held responsible for construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the construction work. The Consultant will not be held responsible for the Contractor's or subcontractors', or any of their agents' or employees' failure to perform the work in accordance with the construction contract unless such failure of performance results from the Consultant's acts or omissions.

B2.05-4

The Consultant must furnish the Town with a written report of all observations of the Work made by Consultant and require all Subconsultants to do same during each visit to the Project. The Consultant must also note the general status and progress of the work. The Consultant must submit the reports in a timely manner. The Consultant will ascertain that the work is acceptable to the Town. Consultant must assist the Town in ensuring that the Contractor is making timely, accurate, and complete notations on the "as-built" drawings. Copies of the field reports must be attached to the monthly Professional Services payment request for construction administration services. The Consultant's failure to provide written reports of all site visits or minutes of meeting will result in the rejection of payment requests and may result in a proportional reduction in Construction Administration fees paid to the Consultant.

B2.05-5

- a. Based on observations at the site and consultation with the Town, the Consultant will determine the amount due the Contractor based on the pay for performance milestones and recommend approval of such amounts as appropriate. This recommendation will constitute a representation by the Consultant to the Town that, to the best of the Consultant's knowledge, information and belief, the work has progressed to the point indicated and that, the quality of the work is in accordance with the contract and the Contractor is entitled to the amount stated on the requisition subject to: a detailed evaluation of the work for conformance with the contract upon substantial completion;
- b. the results of any subsequent tests required by the contract;
- c. minor deviations from the construction contract correctable prior to completion;
- d. any specific qualifications stated in the payment certificate and further that the Contractor is entitled to payment in the amount agreed upon at a requisition site meeting or as stated on the requisition.

Prior to recommending payment to the contractor, the Consultant will prepare a written statement to the Town on the status of the work relative to the construction schedule, which must be attached to the contractor's request for payment. Such statement must be prepared immediately following the requisition field meeting and must not be cause for delay in timely

payment to the Contractor. By recommending approval of a payment to the construction contractor, the Consultant will not be deemed to represent that the Consultant has made any examination to ascertain how and for what purpose the Contractor has used money paid.

B2.05-6

The Town will be the interpreter of the requirements of the construction contract and the judge of the performance thereunder. The Consultant will render interpretations necessary for the proper execution or progress of the construction work upon written request of either the Town or the Contractor, and will render written decisions, within maximum of ten (10) calendar days, on all claims, disputes and other matters in question between the Town and the Contractor relating to the execution or progress of the work. Interpretations and decisions of the Consultant must be consistent with the intent of and reasonably inferable from, the construction contract and must be in written or graphic form.

B2.05-7

The Consultant will have the authority to recommend rejection of work, which does not conform to the construction contract. Whenever, in its reasonable opinion, the Consultant considers it necessary or advisable to insure compliance with the construction contract, the Consultant will have the authority to recommend special inspection or testing of any work deemed to be not in accordance with the construction contract, whether or not such work has been fabricated or delivered to the Project, or installed and completed.

B2.05-8

The Consultant must promptly review and approve, reject or take action on shop drawings, samples, RFIs and other submissions of the contractor. Changes or substitutions to the construction documents must not be authorized without concurrence of the Town. The Consultant will have a maximum of ten (10) calendar days from receipt of shop drawings, samples, RFI's or other submittals by the Contractor, to return the shop drawings or submittals to the Project Manager with comments indicating either approval or disapproval. Consultant must provide the Project Manager with a detailed written explanation as to the basis for any rejection.

B2.05-9

The Consultant must initiate and prepare required documentation for changes as required by the Consultant's own observations or as requested by the Town, and must review and recommend action on proposed changes. Where the Contractor submits a request for Change Order or Change Proposal request, the Consultant must, within ten (10) calendar days, review and submit to the Project Manager, its recommendation or proposed action along with an analysis or study supporting such recommendation.

B2.05-10

The Consultant must, in conjunction with the Project Manager, examine the construction work upon receipt of the Contractor's request for substantial completion inspection of the Project and must, prior to acceptance by the Town, recommend execution of a "Certificate of Acceptance for Substantial Completion after first ascertaining that the Project is substantially complete in accordance with the construction contract requirements. The Consultant will in conjunction with representatives of the Town and the Contractor prepare a punch list of any defects and discrepancies in the work required to be corrected by the Contractor in accordance with Florida Statute 218.735. Upon satisfactory completion of the punch list the Consultant will recommend execution of a "Certificate of Final Acceptance" and final payment to the Contractor. The Consultant will review upon receipt all required closeout documentation from the Contractor, including but not limited to all guarantees, operating and maintenance manuals for equipment,

as-built drawings, warranties, and such other documents and certificates as may be required by applicable codes, law, and the construction contract, and deliver them to the Town before final completion will be issued to the Contractor.

Consultant must attend a second substantial completion inspection if required.

B2.05-11

The Consultant must review the Contractor's "as-built" drawings and submit them to the Town upon approval or rejection by the Consultant. The Contractor is responsible for preparing the "as-built" drawings.

B2.05-12

The Consultant must monitor and provide assistance in obtaining the Contractor's compliance with its construction contract relative to 1) initial instruction of Town's personnel in the operation and maintenance of any equipment or system, 2) initial start-up and testing, adjusting and balancing of equipment and systems and 3) final clean-up of the Project to assure a smooth transition from construction to occupancy by the Town.

B2.05-13

The Consultant must furnish to the Town the original documents, including drawings, revised to "as-built" conditions based on information furnished by the Contractor; survey, and specific condition. In preparing the "Record Set" documents the Consultant must rely on the accuracy of the information provided by the Contractor, including the Contractor's record drawings. Any certification required under this Agreement including the contents of "as-built" documents is conditioned upon the accuracy of the information and documents provided by the construction contractor. Transfer of changes made by "Change Authorization", "Change Order", "Request for Information", substitution approvals, or other clarifications will be the Consultant's responsibility to incorporate into the "Record Set". Changes made in the field to suit field conditions, or otherwise made by the Contractor for its convenience must be marked by the Contractor on the "Field Record Set" and transferred to the original contract documents by the Consultant. The original documents as well as the "Record Set" will become the property of the Town. A reproducible set of all other final documents will be furnished to the Town free of charge by the Consultant. The Consultant must furnish to the Town one complete set of "Record Set Drawings", in Auto CADD Version 2007 or such other format acceptable to the Town.

B2.05-14

The Consultant must prepare a statement of work completion and submit them to the Town and DERM, if required.

B2.05-15

The Consultant will assist the Town in the completion of the Contractor's performance evaluation during construction work and upon final completion of the Project.

B2.06 Time Frames for Completion

The timeframes for the completion of the Project and its phase or tasks are established in Schedule 1 of the Agreement.

Article B3 Additional Services

B3.01 General

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

B3.02 Examples

Except as may be specified in this Agreement, Additional Services may include, but are not limited to the following:

B3.02-1

Appraisals: Investigation and creation of detailed appraisals and valuations of existing facilities, and surveys or inventories in connection with construction performed by Town.

B3.02-2

Specialty Design: Any additional special professional services not included in the Scope of Services.

B3.02-3

Extended Testing & Training: Extended assistance beyond that provided under Basic Services for the initial start-up, testing, adjusting and balancing of any equipment or system; extended training of Town’s personnel in operation and maintenance of equipment and systems, and consultation during such training; and preparation of operating and maintenance manuals, other than those provided by the Contractor, subcontractor, or equipment manufacturer. Provide Commissioning Services as part of systems start-up.

B3.02-4

Major Revisions: Making major revisions to drawings and specifications resulting in or from a change in Scope of Work requested by the Town, when such revisions are inconsistent with written approvals or instructions previously given by Town and are due to causes beyond the control of Consultant. (Major revisions are defined as those changing the Scope of Work and arrangement of spaces or scheme or any significant portion thereof). These do not include revisions resulting from a regulatory agencies requirements for the Services to meet applicable building code requirements, or other laws, rules or regulations.

B3.02-5

Expert Witness: Preparing to serve or serving as an expert witness in connection with any arbitration proceeding or legal proceeding, providing, however, that Consultant cannot testify against Town in any proceeding during the course of this Agreement.

B3.02-6

Miscellaneous: Any other services not otherwise included in this Agreement or not customarily furnished in accordance with generally accepted engineering practice related to construction.

B3.03 Additional Design

The Town may, at its option, elect to proceed with additional design work, which will be handled in accordance with the requirement for Additional Services.

Article B4 Town’s Responsibilities

B4.01 Project & Site Information

The Town, at its expense and insofar as performance under this Agreement may require, may furnish the Consultant with the information described below, or, if not readily available, may authorize the Consultant to provide such information as part of the Basic Services or as an Additional Service, which will be paid as a Reimbursable Expense.

B4.01-1

Surveys: Complete and accurate surveys of building or sites, giving boundary dimensions, locations of existing structures, the grades and lines of street, pavement, and adjoining properties; the rights, restrictions, easements, boundaries, and topographic data of a building site, and existing utilities information regarding sewer, water, gas, telephone and electrical services.

B4.01-2

Soil Borings, Geotechnical Testing: Soil borings or test pits; chemical, mechanical, structural, or other tests when deemed necessary; and, if required, an appropriate professional interpretation thereof and recommendations. Consultant will recommend necessary tests to the Town.

B4.01-3

General Project Information: Information regarding Project Budget, Town and State procedures, guidelines, forms, formats, and assistance required to full establish the Project.

B4.01-4

Existing Drawings: Drawings representing as-built conditions at the time of original construction, subject to as-built availability. However, such drawings, if provided, are not warranted to represent conditions as of the date of receipt. Consultant must still perform field investigations as necessary to obtain sufficient information to perform the Additional Services.

B4.01-5

Reliability: The services, information, surveys and reports described in A4.01-1 through A4.01-4 above, will be furnished at Town's expense, and Consultant will be entitled to rely upon the accuracy and completeness thereof, provided Consultant has reviewed all such information to determine if additional information or testing is required to properly design the Project.

B4.02 Construction Management**B4.02-1**

During construction, the Consultant and Town staff will assume the responsibilities described in the general conditions and supplementary conditions of the construction contract relating to review and approval of the construction work by the Contractor.

B4.02-2

If the Town observes or otherwise becomes aware of any fault or defective construction work in the Project, or other nonconformance with the construction contract during construction, the Town will give prompt notice thereof to the Consultant.

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 C3.01 below.
- b) An Hourly Rate, in accordance with C3.02 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 limited to the amount specified in Section A2.03-1 as the maximum compensation limit for cumulative expenditures under this Agreement. Under no circumstances will the Town have any liability for Services performed, or as otherwise may be alleged or claimed by Consultant, beyond the cumulative amount provided herein, except where specifically approved in accordance with the Town's Procurement Ordinance, either by the Town Manager or Town Council, as applicable, as an increase to the Agreement and put into effect via an amendment to this Agreement.

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 the 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 prior to the use of the personnel. 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, 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, such as FDOT approved rates.

C2.03 Multiplier

For Work assigned under this Agreement, a multiplier of 2.9 will apply to Consultant's hourly Wage Rates in calculating compensation payable by the Town. 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 the Project. The multiplier does not apply to the Principal, owner, or partner of the Consultant except where they are preparing drawings or specifications, preparing a study report, or similar tasks.

The Town may, at its sole discretion, accept the rates established in Consultant's FDOT's Pre-Qualification Letter to determine the multiplier or the Town may require the Consultant to submit its latest certified audit statement to establish the multiplier.

The Town may request at any time during the term of the Agreement that the Consultant provide updated information to validate its multiplier. It is the responsibility of the Consultant to notify the Town whenever circumstances that will result in a change to the multiplier.

C2.04 Calculation

Said Wage Rates are to be utilized by Consultant in calculating compensation payable for Additional Services requested by Town or where the Consultant proposes to add additional staff. 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 Additional Services.

C2.05 Wage Rate Adjustments

There will be no wage rate adjustments permitted under this Agreement.

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 typically 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. Lump Sum and Lump Sum not to Exceed methods of compensation are the preferred methods of compensation. The Lump Sum or Lump Sum not to Exceed will be calculated utilizing the Wage Rates established in Schedule 2. Such Fee(s) will be subject to validation by the Town and the Town may request additional information to substantiate the Fee(s).

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 the Project Work Order, or phase/ task of the Project or Work Order for Additional Services. Payments to the Consultant will be based on a percentage of completion basis.

C3.01-2 Lump Sum Not to Exceed Fee will establish the maximum amount of compensation to be paid to the Consultant for the Services performed on the Project as a whole, or a phase/task of the Project or Work Order issued for Additional Services. 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 the execution of the Agreement or Work Order issuance for Additional Services. 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 Services, the Lump Sum Base Fee may be equitably adjusted by mutually consent of the parties, which will be reflected in an amendment to the Agreement.

C3.02 Hourly Rate Fees

C3.02-1 Base Hourly Rate Fees are those rates, which are paid the 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 Agreement. The Town will have no liability for any fee, cost or expense above this figure except the addition of the multiplier, which is identified as the "Loaded Hourly Rate".

The Loaded Hourly Rate Fees will be used to quantify or calculate the complete nature, or aspects, tasks, man-hours, or milestones for a task, phase or Work Order for Additional Services. The Town may establish an allowance in a task, phase or Work Order for Additional Services that will serve as a Not to Exceed Fee for the Services 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 must 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, without any mark-up, including but not limited to charges for the Consultant handling, office rent or overhead expenses of any kind, including local telephone and utility charges, office and drafting supplies, depreciation of equipment, professional dues, subscriptions, etc., reproduction of drawings and specifications (above the quantities set forth in this Agreement), mailing, or other employees time for travel and subsistence. Town authorized reproductions in excess of the number of sets required for each phase or task of the Services 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 Town Manager or designee including, without limitation, detailed bills, itemized invoices or copies of cancelled checks.

C3.04 Fees for Additive or Deductive Alternates

The design of additive and deductive alternates contemplated as part of the original Scope for a Project as authorized by the Town Manager will be considered as part of Basic Services. The design of additive and deductive alternates that are beyond the original Scope of Work and construction budget must be authorized through a Work Order and must be billed to Town as Additional Services. The fees for alternates will be calculated by one of the three methods outlined above, as mutually agreed by the Town Manager and the Consultant.

C3.05 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 C3.03 and C3.05 respectively, may be applicable. The Consultant must utilize the Work Order Proposal Form and worksheets which can be found on the Town's website at http://miamilakes-fl.gov/index.php?option=com_content&view=article&id=149&Itemid=358. The webpage also provides the procedures for completing these forms. Failure to use the forms or follow the procedures will result in the rejection of the Work Order Proposal.

C3.05-1 Determination of Fee

The compensation for such services will be one of the methods described Sections C3.01 and C3.02,.

C3.05-2 Procedure and Compliance

An independent and detailed Work Order or an Amendment to a previously issued Work Order will 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 must not be exceeded, and must comply with the Town's regulations, including the Procurement Ordinance, the Consultant's Competitive Negotiation Act, and all other applicable laws.

C3.06 Payment Exclusions

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

C3.07 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, the Consultant will be paid for Services duly authorized and performed prior to such suspension or termination, together with the cost of authorized Reimbursable Expenses, 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 or task of the Work. Subconsultant fees and Reimbursable Expenses must be billed to the Town in the actual amount paid by Consultant. Consultant must utilize the Town standard Consultant Invoice Form as identified in Section A2.03-2. Failure to use the Town's invoice form will result in rejection of the payment request.

C4.02 Comprehensive Basic Services

For Projects and Work Orders contain multiple phases or task, payments will not exceed the amount stipulated for each phase/task and the aggregate payment will not exceed the total value of the Agreement.

C4.03 Billing – Hourly Rate

Invoices submitted by the 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, a Town provided invoice form, with supporting documentation providing the names, classification, salary rate per hour, hours worked and total charge for all personnel directly engaged on the Project, Work Order, phase or task. Any authorize Reimbursable Expenses may then be added. 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, Work Order, or the applicable phase or task.

C4.03 Payment for Additional Services & Reimbursable Expenses

Payments for Additional Services must comply with the requirements of this Sections 3.03. 3.05 and Section C4. Failure to comply with these requirements will result in the delay of payment by the Town.

Article C5 Reimbursable Expenses**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 Basic Services or Work Order and consist of actual expenditures made by the Consultants and the Consultant's Subconsultants, as stated in Section 3.03 for the following:

C5.01-1 Transportation

Transportation will not be considered a reimbursable expense under this Agreement.

C5.01-2 Travel And Per Diem

Travel and per diem will not be considered a reimbursable expense under this Agreement.

C5.01-3 Communication Expenses

Identifiable communication expenses approved, in writing and in advance by the Town Manager, including long distance telephone, courier and express mail between the Consultant's and Subconsultant's offices or the Town's offices.

C5.01-4 Reproduction, Photography

Cost of printing, reproduction or photography, beyond that which may be required by the Agreement, which is required by or of Consultant to deliver the services 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 Town 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

Consultant, ADA Engineering, Inc.

Signature

Signature

Print Name, Title

Ivette O. Argudin, Principal

Print Name, Title of Authorized Officer or Official

Attest:

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

Gina Inguanzo, Town Clerk

Alex Rey, Town Manager

Approved as to Legal Form and Correctness:

Raul Gastesi Town Attorney

CORPORATE RESOLUTION

WHEREAS, ADA Engineering, Inc., Inc desires to enter into an Agreement with the Town of Miami Lakes for the purpose of performing the work described in the Agreement to which this resolution is attached; and

WHEREAS, the Board of Directors at a duly held corporate meeting has considered the matter in accordance with the By-Laws of the corporation;

Now, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS that the Executive Vice President
(type title of officer)

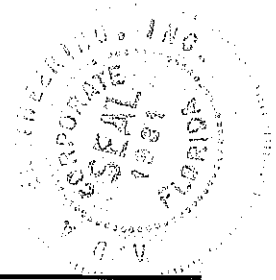
Ivette O. Argudin
(type name of officer), is hereby authorized and instructed to

enter into a contract, in the name of and on behalf of this corporation, with the Town of Miami Lakes upon the terms contained in the proposed Agreement to which this resolution is attached.

DATED this 13th day of January, 2016.

Ivette O. Argudin
Corporate Secretary

(Corporate Seal)

**NOTARIZATION**

STATE OF Florida

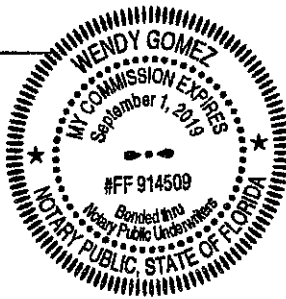
) SS:

COUNTY OF Miami-Dade)

The foregoing instrument was acknowledged before me this 13 day of January, 2016, by Ivette O. Argudin, who is personally known to me or who has produced _____ as identification and who (did / did not) take an oath.

W. Gomez
SIGNATURE OF NOTARY PUBLIC
STATE OF FLORIDA

PRINTED, STAMPED OR TYPED
NAME OF NOTARY PUBLIC



SECTION D – FORMS & SCHEDULES**Form SC - SUBCONSULTANTS**

FIRM NAME	CONSULTING FIELD
None	

Form KS – KEY STAFF

NAME	JOB CLASSIFICATION
Alberto D. Argudin	QA/QC
Alex Vazquez	Project Manager
Brent Whitfield	Sr. Engineer
Jeff Voliat	Project Engineer
Waddie Ruiz	Construction Manager
Olga Casadevali	Engineer Intern
Misael Ramirez	CADD

SCHEDULE 1 - COMPENSATION SUMMARY & TIMEFRAME**WORK ORDER #1**

Task No.	Major Task and/or Activity	Days to complete task from NTP	Fee Amount
1	Pre-Design Services	1 month	\$6,043.60
2	Design Services	30 months	\$105,707.90
3	Post Design Services	Approx. 8 months	\$37,160.60
	Total Basic Services		\$148,912.10

Total of 4 months

SCHEDULE 2 - WAGE RATES SUMMARY

JOB CLASSIFICATION	NAME	BASE HOURLY RATE
QA/QC	Alberto D. Argudin	\$85.00
Project Manager	Alex Vazquez	\$80.86
Sr. Engineer	Brent Whitfield	\$60.00
Project Engineer	Jeff Voliat	\$49.52
Construction Manager	Waddie Ruiz	\$44.00
Engineer Intern	Olga Casadevali	\$32.00
CADD	Misael Ramirez	\$30.00