

RESOLUTION NO. 2010 – 092

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA APPROVING AN AGREEMENT WITH MANUEL SYNALOVSKI ASSOCIATES LLC, TO PROVIDE PROFESSIONAL ARCHITECTURAL DESIGN SERVICES FOR THE RENOVATION OF THE NEW TOWN HALL; AUTHORIZING THE MAYOR, TOWN ADMINISTRATOR, AND TOWN ATTORNEY TO ENTER INTO AN AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on May 12, 2010, in furtherance of the Town's Procurement Code, the Town published a request for letters of interest seeking qualified firms for Architectural Design Services for the renovation of the new Town Hall; and

WHEREAS, on June 4, 2010, the Town received three (3) responses to its request for letters of interest; and

WHEREAS, on June 16, 2010, the Town's Selection and Negotiation Committee ("SNC"), at a publicly advertised meeting, short-listed the firms to three (3); and

WHEREAS, on August 2, 2010, the Town's SNC, at a publicly advertised meeting, interviewed and ranked all three (3) finalists; and

WHEREAS, on August 30, 2010, the Town's SNC, at a publicly advertised meeting, negotiated with the top-ranked vendor, Manuel Synalovski Associates LLC; and

WHEREAS, the Town and Manuel Synalovski Associates LLC are desirous of formalizing their relationship through a formal Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Southwest Ranches, Florida:

Section 1. The recitals above are true and correct and are incorporated herein by reference.

Section 2. The Town Council hereby approves an Agreement between the Town of Southwest Ranches and Manuel Synalovski Associates LLC in substantially the same form as that attached hereto as Exhibit "A", for

Professional Architectural Design Services for the renovation of the new Town Hall.

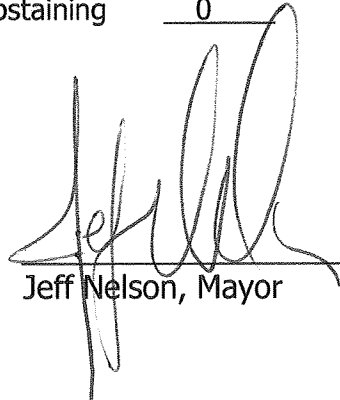
Section 3. The Town Council hereby authorizes the Mayor, Town Administrator and Town Attorney to enter into an Agreement in substantially the same form as that attached hereto as Exhibit "A" and to make such modifications, additions and/or deletions which they deem necessary and proper to effectuate the intent of this Resolution.

Section 4. This Resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED by the Town Council of the Town of Southwest Ranches, Florida, this 15th day of September 2010, on a motion by Council Member McKay and seconded by Vice Mayor Knight.

Nelson	<u>AYE</u>
Knight	<u>AYE</u>
Breitkreuz	<u>AYE</u>
Fisikelli	<u>AYE</u>
McKay	<u>AYE</u>

Ayes	<u>5</u>
Nays	<u>0</u>
Absent	<u>0</u>
Abstaining	<u>0</u>



Jeff Nelson, Mayor

ATTEST:



Debra Doré-Thomas, Town Clerk

Approved as to Form and Correctness:



Keith M. Poliakoff, J.D., Town Attorney
ACTIVE: 3094302_1

AGREEMENT FOR PROFESSIONAL ARCHITECTURAL DESIGN SERVICES

THIS AGREEMENT, made and entered into this 15th day of September 2010, by and between the TOWN of SOUTHWEST RANCHES, Florida, hereinafter referred to as "TOWN", and MANUEL SYNALOVSKI ASSOCIATES LLC, a Florida limited liability company licensed as an Architectural Business with the State of Florida under License No. AA26001863 with qualifying architect, Manuel Synalovski, whose License No. is 11628, hereinafter referred to as "ARCHITECT".

WITNESSETH:

RECITALS:

WHEREAS, the TOWN has provided notice of the desired professional services and carried out the proper selection process pursuant to and in accordance with the Consultant's Competitive Negotiation Act; and,

WHEREAS, the TOWN desires to engage the ARCHITECT to perform certain professional architectural services in accordance with this AGREEMENT; and

WHEREAS, the ARCHITECT desires to provide such professional architectural services in accordance with this AGREEMENT; and

WHEREAS, the TOWN represents that it has the authority to engage the ARCHITECT and accept the obligation for payment, within the maximum amount budgeted for each fiscal year for all expenses for the Project, for the services desired as set forth in this AGREEMENT as approved by the TOWN's Resolution No. 2010-092.

NOW, THEREFORE, in consideration of the premises and the mutual benefits which will accrue to the parties hereto in carrying out the terms of this AGREEMENT, it is mutually understood and agreed as follows:

The above Recitals are true and correct and are incorporated herein and made a part of this Agreement.

Project: Renovation of existing building that was formerly a church to include Town administrative offices, council chambers and additional office space at 13400 Griffin Road, Southwest Ranches, in Broward County, Florida, as set forth in the Town's Program, attached hereto and made a part hereof as Exhibit "A"; the Project Scope, attached hereto and made a part hereof as Exhibit "B"; and the Project Budget, attached hereto and made a part hereof as Exhibit "C". (The "Project").

Project Number:

The ARCHITECT shall provide professional design services for the above referenced Project as detailed herein for the TOWN.

ARTICLE 1 - DESCRIPTION OF PROFESSIONAL SERVICES

1.1 Basic Services and Standard of Care. All Services rendered by ARCHITECT and its consultants pursuant to this Agreement will be performed in accordance with the standard of professional skill and care required for architects and other design professionals retained to design, document, coordinate and assist with from commencement to finish of construction, the planning, design, documentation, permitting and field observation of a renovation of an existing building to a new use in Florida as well as other architectural services for projects of a similar nature. ARCHITECT will perform all Services consistent with the interests of the TOWN and in strict accordance with the requirements of the applicable edition of the Florida Building Code with Broward County Amendments ("Florida Building Code"), the National Electric Code, Life Safety Code, Florida Administrative Code, the ADA, the Florida Accessibility Code for Building Construction, and all other applicable codes, laws, regulations, ordinances, and all other applicable standards that govern the design and construction of the Project as described in this Agreement as well as those requirements imposed by governmental authorities having jurisdiction over this Project. ARCHITECT agrees to timely perform its Services so as not to delay the TOWN and the Work for the Project, time being of the essence. The milestone dates for completion of certain Services for the Project by ARCHITECT are described in the Project Schedule, included as **Exhibit "D"**.

1.1.1 Points of Contact: The TOWN's Designated Point of Contact shall be:

Mr. Charles Lynn, Town Administrator, 954.434.0008, clynn@southwestbranches.org or his designee

The ARCHITECT's Designated Point of Contact shall be:

Ms. Merrill Romanik, 954.961.6806, mromanik@syalovski.com

1.1.2 The ARCHITECT will provide appropriate documentation to the TOWN to demonstrate that it and all of its consultants are properly licensed to perform all Services relative to this Agreement.

1.1.2.1 A consultant is a person or entity who the ARCHITECT has retained and who the ARCHITECT will pay to perform any of the Services described in this Agreement for the Project. Reasonable funds for such payment have been included as part of ARCHITECT's compensation under this Agreement.

1.1.2.2 The ARCHITECT shall be responsible to the TOWN for the acts and omissions of its employees, consultants, sub-consultants and their respective employees or persons performing any of the Services under this Agreement.

1.1.2.3 The ARCHITECT shall have the sole obligation and responsibility to select, control and supervise all of its consultants. The ARCHITECT may not contract with

anyone with whom the TOWN has a reasonable objection. Agreements between the ARCHITECT and the consultants shall require each consultant, to be bound to the ARCHITECT for all obligations and responsibilities which the ARCHITECT, by this Agreement assumes toward the TOWN. This provision also applies to substitute consultants hired during the course of design and construction to replace existing consultants in accordance with this Agreement.

1.1.2.4 The ARCHITECT and its consultants will perform without expense to the TOWN, such Services as may be required to correct or remedy any negligent act, error or omission of the ARCHITECT or its consultants. Additionally, should the design produced by the ARCHITECT result in construction bids that exceed the Project Budget, the ARCHITECT shall provide all services to TOWN, at no charge, in order to modify the design to conform to the Project Budget requirements of the TOWN, provided, however, if the ARCHITECT proceeds based on the Construction Manager's confirmation that cost estimates for the Project are within the Project Budget, any re-design by ARCHITECT that may be needed due to Construction Manager's mis-estimation shall be provided as Additional Services by ARCHITECT.

1.1.3 ARCHITECT's Basic Services shall consist of the phases described below, with each phase more particularly described in Paragraphs 1.2 through 1.11, inclusive, and include normal structural, mechanical and electrical engineering services, lighting design, civil engineering, code consulting, interior color palette, interior and exterior signage design, and any other services included herein as part of Basic Services. The phases, labeled A through G, below include:

- A. Programming for the Project, at the TOWN's discretion, may include a design charette with the public;
- B. Site Planning approval process for the Project;
- C. Schematic design;
- D. Design development;
- E. Construction documents, including Bid Documents and Specifications Manual;
- F. Permitting assistance/coordination; and
- G. Construction administration, including, but not limited to, sufficient quality and quantity of inspections to certify the Project, review of shop drawings and other submittals, and a CADD/electronic file Record Set of Final As-Built Drawings.

1.1.4 The consultants retained at the Architect's expense and to be paid by Architect out of the funds provided as part of Architect's compensation under this Agreement are as follows:

Structural: tbd

MEP: tbd

Code Compliance (including ADA): tbd

Interior Color Palette and Signage: tbd

Civil Engineering: tbd

The consultants to be determined above, after being specified in a Change in Services Authorization, will only be substituted for good cause, without monetary increase in the fees paid by the Town and only with the prior written consent of the Town which consent will not be unreasonably withheld. Services of other consultants other than those designated above are prohibited from being used for this Project, absent prior written authorization from the Town.

1.1.5. The consultants and contractors retained at the Town's expense are as follows:

Program Manager: (tbd)

Construction Manager: (tbd)

1.1.6 The ARCHITECT shall retain responsibility for coordination of any consultants engaged by the ARCHITECT to provide Services under this Agreement and will likewise coordinate its Services with those consultants retained by the Town. Town agrees that all communications of the Town with the ARCHITECT's consultants will be made through the ARCHITECT's Representative, unless such consultants have also been retained by the Town.

1.1.7 The ARCHITECT shall not engage in any activity, or accept any employment, receive any monetary compensation, interest or contribution that could create the appearance of impropriety or compromise the ARCHITECT's professional judgment with respect to this Project.

1.2 Programming. The ARCHITECT shall analyze and provide a written evaluation of the information furnished by the TOWN under this Agreement, including the TOWN's preliminary program requirements (attached to this Agreement as Exhibit "A") and the TOWN's schedule requirements for construction to begin by November 1, 2010 and the TOWN's \$300,000.00 budget for the Cost of the Work of the Project, each in terms of the other (the "Project Program"). The ARCHITECT shall prepare the Project Program in a manner such that the Project Program is consistent with the requirements of the Project and shall notify the TOWN of all other information or consultant services that may be reasonably needed for the Project. Upon request by the TOWN, the ARCHITECT shall make a presentation to representatives of the TOWN to explain the Programming Services to be utilized in developing the Project. The ARCHITECT shall submit programming documents to the TOWN for evaluation and approval at intervals appropriate to the process. The ARCHITECT shall be entitled to rely on written approvals received from the TOWN to complete the Programming Services and in the further development of the Project.

1.2.1 The ARCHITECT shall recommend common standards utilized by other equivalently sized municipalities for such elements as area allowances, space allocation, travel distances, and furniture and equipment requirements.

1.2.2 The ARCHITECT shall establish general space quality standards for the Project related to such elements as lighting levels, equipment performance, acoustical requirements, security and aesthetics.

1.2.3 The Architect shall determine specific space requirements for the Project by:

- .1 identifying required spaces,
- .2 establishing sizes and relationships,
- .3 establishing space efficiency factors (ratio of net square footage to gross square footage), and
- .4 documenting particular space requirements such as special HVAC, plumbing, power, lighting, acoustical, furnishings, equipment, or security needs.

1.2.4 As part of the interim steps to the final version of the Project Program, the ARCHITECT shall provide to the TOWN, no less than two different space allocation plans and, at the TOWN's discretion, the ARCHITECT shall conduct a design charette with the public.

1.2.5 The ARCHITECT shall prepare, for the TOWN's review and approval, a final program document detailing all items identified in Sections 1.2.1 to 1.2.3, incorporating written and graphic materials that shall include:

- .1 an executive summary,
- .2 documentation of the methodology used to develop the program,
- .3 all relationship and flow diagrams and matrices utilized to identify space allocations and relationships,
- .4 space listings by function and size, and

.5 space program sheets including standard requirements and special HVAC, plumbing, power, lighting, acoustical, furnishings, equipment, or security needs.

Upon the TOWN's written acceptance of the final program document that has been signed by the Town Administrator, it shall become the final Project Program.

1.3 Site Planning. As the Project consists of an existing building on an existing built-out site, the TOWN and the ARCHITECT anticipate site planning needs for the Project to be minimal. Nevertheless, the ARCHITECT shall provide an evaluation of the site for the Project and the final Project Program, each in terms of the other, with a review of the existing site information to ascertain that it is consistent with the requirements of the Project.

1.4 Schematic Design Phase.

1.4.1 Upon the TOWN's written approval of the Project Program and any needed Site Planning, the TOWN may then authorize the ARCHITECT to proceed with the Schematic Design Phase of the Project. Only upon the ARCHITECT's receipt of a written and executed work order for schematic design for the Project from the TOWN that has been signed by the Town Administrator, shall the ARCHITECT be authorized to proceed with the Schematic Design Phase of the Project.

1.4.2 During the Schematic Design Phase, ARCHITECT shall review the Project Program and shall review and confirm in writing its understanding of these requirements and other design parameters with the Town, including the Town's Project Budget and the estimate of total construction cost for the Project as provided by the Construction Manager ("Construction Cost Estimate") as well as the likely ability of a Florida licensed general contractor to build the Project as determined by the Construction Manager ("Project Buildability").

1.4.3 The ARCHITECT shall provide in writing a preliminary evaluation of the Project Program and comment on the Project Budget and Project Buildability requirements, each in terms of the other.

1.4.4 The ARCHITECT shall review with the Town and the Construction Manager, selection of materials, building systems and equipment; construction methods and methods of Project delivery.

1.4.5 Based on the mutually agreed upon Project Program and the Project Budget and Project Buildability requirements, the ARCHITECT shall prepare, for approval by the Town, Schematic Design Documents consisting of drawings, outline specifications and other documents illustrating the scale and relationship of Project components.

1.4.6 At intervals appropriate to the progress of the Schematic Design Phase, the ARCHITECT shall consult with the Town and provide schematic design studies for Town's and Construction Manager's review and comment, which comments will be provided promptly

upon receipt of such studies so as to cause no delay to the ARCHITECT, and ARCHITECT shall promptly incorporate agreed changes so as to cause no delay to the Project.

- 1.4.7 Upon completion of the Schematic Design Phase the ARCHITECT shall provide the drawings, outline specifications and other documents approved by the Town, to the Town and shall not proceed with the Design Development Phase until so instructed, in writing, by the Town. Additionally, the ARCHITECT shall, at no additional cost to the Town, modify the drawings and outline specifications and other documents, as necessary, for the Town to be able to confirm general conformance of the Schematic Design, Project Buildability and Project Budget with each other. Despite such general conformance, the Town may still elect not to proceed with the Design Development Phase, in which case, the Town shall give written notice that the Project is to be abandoned and terminate this Agreement in accordance with Paragraph 7.1.

1.5 DESIGN DEVELOPMENT PHASE

- 1.5.1 Upon the ARCHITECT's receipt of a written and executed work order for design development for the Project that has been signed by the Town Administrator, the ARCHITECT shall be authorized to proceed. Upon such authorization and based on the approved Schematic Design Documents and any adjustments required by the Town in the Project Program or the Project Budget, the ARCHITECT shall prepare, for approval by the Town, the Design Development Documents consisting of drawings, outline specifications and other documents to fix and describe the size and character of the entire Project as to architectural, structural, mechanical, electrical, security, fire protection, civil engineering, materials and all such other elements as may be appropriate.
- 1.5.2 At intervals appropriate to the progress of the Design Development Phase, the ARCHITECT shall consult with the Town and provide Design Development Documents for the Town's and the Construction Manager's review and comment, which comments will be provided promptly upon receipt of such interim Design Development Documents so as to cause no delay to the ARCHITECT, and ARCHITECT shall promptly incorporate agreed changes upon receipt of comments so as to cause no delay to the Project.
- 1.5.3 Upon completion of the Design Development Phase, the ARCHITECT shall provide the TOWN with drawings, outline specifications and other documents approved by the TOWN and shall not proceed with the Construction Documents Phase until so instructed, in writing, by the TOWN. Additionally, the ARCHITECT shall, at no additional cost to the TOWN, modify the Design Development Documents, as necessary, for the TOWN to be able to confirm general conformance of the Design Development Documents, Project Buildability and Project Budget with each other. Despite such general conformance, the TOWN may still elect not to proceed with the Construction Documents Phase, in which case, the TOWN shall give written notice that the Project is to be abandoned and terminate this Agreement in accordance with Paragraph 7.1.

1.6 CONSTRUCTION DOCUMENTS PHASE

- 1.6.1 Upon the ARCHITECT's receipt of a written and executed work order for construction documents for the Project that has been signed by the Town Administrator, the ARCHITECT shall be authorized to proceed. Upon such authorization and based on the approved Design Development Documents and any further adjustments in the scope (including quantity) or quality of the Project or in the Project Budget by the Town, the ARCHITECT shall prepare, for approval by the Town, Construction Documents consisting of Drawings and Specifications setting forth in detail the requirements for the construction of the Project in such form to meet Project Buildability requirements and enable the governing jurisdiction (CAP Government, Inc.) to issue a building permit for the Project.
- 1.6.2 At intervals appropriate to the progress of the Construction Documents Phase, the ARCHITECT shall consult with the Town and provide documents for Town's and Construction Manager's review and ongoing Construction Cost Estimate and Project Buildability evaluation and comment, which comments will be provided promptly upon receipt of such interim Construction Documents so as to cause no delay to the ARCHITECT, and ARCHITECT shall promptly incorporate agreed changes upon receipt of such comments so as to cause no delay to the Project.
- 1.6.3 Upon completion of the Construction Documents, the ARCHITECT shall provide the Town with the Drawings and Specifications and other documents approved by the Town and shall not proceed with the next phase of the Project, including permitting, until so instructed, in writing, by the Town. Additionally, the ARCHITECT shall, at no additional charge to the Town, modify the Construction Documents, as necessary, for the Town to be able to confirm that the Construction Documents, Project Buildability and Project Budget requirements, including the Construction Cost Estimate, are in conformance with each other. Despite such general conformance, the Town may still elect not to proceed with submitting the Construction Documents to permitting, in which case, the Town shall give written notice that the Project is to be abandoned and terminate this Agreement in accordance with Paragraph 7.1.

1.7 PERMITTING ASSISTANCE/COORDINATION

- 1.7.1 Upon the ARCHITECT's receipt of a written and executed work order for permitting assistance/coordination for the Project that has been signed by the Town Administrator, the ARCHITECT shall be authorized to proceed. Upon such authorization and based on the approved Construction Documents, ARCHITECT shall assist the Town in connection with the Town's responsibility for filing all documents required for the approval of governmental authorities having jurisdiction over the Project. To the extent that governmental authorities require any substantive changes in the Construction Documents in order for the requisite permits to be issued for construction of the Project, the ARCHITECT will provide these proposed changes to the TOWN, if the required changes put the Construction Cost Estimate in excess of that provided for in the Project Budget, ARCHITECT will diligently work with TOWN (along with the permitting authorities) to revise the Construction Documents, at no

additional cost to the TOWN, until these final Construction Documents meet the requirements of the permitting authorities, meet the requirements for Project Buildability and also conform to the final Project Budget.

1.8 PREPARATION OF PROJECT MANUAL

- 1.8.1 Upon the ARCHITECT's receipt of a written and executed work order for preparation of a Project Manual for the Project that has been signed by the Town Administrator, the ARCHITECT shall be authorized to proceed. Upon such authorization and based on the final permitted Construction Documents approved by TOWN, the ARCHITECT shall prepare a Project Bid Documents and Specifications Manual that includes a complete set of the permitted Drawings and Specifications and other documents relevant to the construction of the Project.
- 1.8.2 If and when requested by the Town, the ARCHITECT shall assist the Town in promptly rendering interpretations and clarifications of the Drawings and Specifications in appropriate written form.

1.9 CONSTRUCTION PHASE-ADMINISTRATION OF THE CONSTRUCTION CONTRACT

- 1.9.1 The Construction Phase will commence with the issuance by the TOWN to the Construction Manager or other successful bidder for the construction Work of the Project, as the case may be (the "Contractor"), a written Notice to Proceed with construction in accordance with the contract entered into between the TOWN and the Contractor (the "Construction Contract"), a copy of which will be provided to the ARCHITECT upon its execution. Upon the ARCHITECT's receipt of a written and executed work order for administration of the Construction Contract that has been signed by the Town Administrator, the ARCHITECT shall be authorized to proceed. Upon such authorization:
- 1.9.2 The ARCHITECT shall advise and consult with the TOWN during the Construction Phase.
- 1.9.3 The ARCHITECT shall visit the site at intervals appropriate to the stage of construction, or as otherwise agreed by the TOWN and ARCHITECT in writing, to become generally familiar with the progress and quality of Work and to determine if Work is proceeding in accordance with the Contract Documents, as such documents are defined in the Construction Contract. The ARCHITECT shall not be required to make exhaustive or continuous on-site observations to check the quality or quantity of Work, provided, however, ARCHITECT shall make such on-site observations necessary to be able to keep the TOWN informed as to the quality and progress of the Work. On the basis of such on-site observations, ARCHITECT shall keep the TOWN informed of the progress and quality of the Work, and shall endeavor to guard the TOWN against defects and deficiencies in the Work. After each visit, the ARCHITECT will promptly provide the TOWN with a written report. If the ARCHITECT becomes aware of any defects or deficiencies in the Work, the ARCHITECT will provide prompt notice, followed by written confirmation, to the TOWN. If, in the

ARCHITECT's opinion, special testing or inspection of the Work is needed, the ARCHITECT shall provide written recommendations for such testing or inspection procedures to the TOWN.

- 1.9.4 The ARCHITECT shall at all times have access to the Work wherever it is in preparation or progress.
- 1.9.5 The ARCHITECT shall promptly issue a written report to the TOWN relative to deviations from the most recent construction schedule including but not limited to all updated schedules submitted by the Contractor for the Project.
- 1.9.6 As requested by the TOWN, and based on the ARCHITECT's observations at the site and an evaluation of Contractor's Application for Payment, the ARCHITECT shall determine the amounts owing to Contractor and shall issue a Certificate for Payment in such amounts, as provided in the Contract Documents.
- 1.9.7 The issuance of a Certificate for Payment shall constitute a representation by the ARCHITECT to the TOWN that, based on the ARCHITECT's observations at the site and on the data comprising the Contractor's Application for Payment, that the Work has progressed to the point indicated; that, to the best of the ARCHITECT's knowledge, information and belief, that the quality of Work is in accordance with the Contract Documents (subject to an evaluation of Work for conformance with the Contract Documents upon Substantial Completion, to the results of any subsequent tests required by or performed under the Contract Documents, to minor deviations from the Contract Documents correctable prior to completion, and to any specific qualifications stated in the Certificate for Payment); and that the Contractor is entitled to payment in the amount certified. However, the issuance of a Certificate for Payment shall not be a representation that the ARCHITECT has made any examination to ascertain how and for what purpose the Contractor has used the money paid by the TOWN with respect to the Contract Sum.
- 1.9.8 The ARCHITECT shall be the interpreter of the requirements of the Construction Documents and the judge of the performance of such requirements by Contractor. The ARCHITECT shall render interpretations necessary for the proper execution or progress of Work, with reasonable promptness and in accordance with agreed upon time limits as described in this Agreement and the Construction Contract. The ARCHITECT shall render written decisions, within a reasonable time so as not to delay the Work, on all claims, disputes and other matters in question between the TOWN and the Contractor relating to the execution or progress of Work or the interpretation of the Construction Documents.
- 1.9.9 All interpretations and decisions of the ARCHITECT shall be consistent with the intent of, and reasonably inferable from, the Construction Documents, and shall be in written or graphic form. In the capacity of interpreter, the ARCHITECT shall endeavor to secure faithful performance by both the TOWN and Contractor and shall not show partiality to either.

- 1.9.10 The ARCHITECT's decisions in disputed matters with the Contractor relating to artistic effect shall be final if consistent with the intent of the Construction Documents, provided, however, such decision by the ARCHITECT shall be subject to approval of the TOWN. The ARCHITECT's decisions on any other claims, disputes or other matters, including those in question between the TOWN and the Contractor shall be subject to Dispute Resolution as provided in this Agreement and the Contract Documents.
- 1.9.11 The ARCHITECT shall have authority to reject Work which does not conform to the Construction Documents and ARCHITECT will promptly deliver a written report to the TOWN detailing the reasons for rejecting the Work. Whenever, in the ARCHITECT's reasonable opinion, it is necessary or advisable for the implementation of the intent of the Construction Documents, the ARCHITECT will have authority to require special inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work be then fabricated, installed or completed; but the ARCHITECT shall take action only after consultation with the TOWN and Contractor.
- 1.9.12 The ARCHITECT, in conjunction with the TOWN, shall review the shop drawings, samples or catalogue cuts which are required by the Construction Documents after review and approval by the Contractor (hereinafter "shop drawings"). The ARCHITECT and TOWN shall either approve or disapprove with written comments, as appropriate, shop drawings for conformance with the design intent of the Construction Documents and transmit them to the Contractor. The review of shop drawings shall be limited to two (2) submissions per identified issue under the scope of Basic Services and will be conducted only after the Contractor has coordinated said documents to indicate field conditions, proposed deviations from the Construction Documents, and other requirements which affect design intent; all submissions shall specifically include a representation by the Contractor to indicate that the required coordination has been performed. The TOWN will not be responsible for any additional compensation to the ARCHITECT for submission reviews in excess of two submissions for the same issue. ARCHITECT will seek compensation from the Contractor for its additional services for review of shop drawings submitted by the Contractor that exceed two (2) reviews for the same issue. If the Contractor unreasonably refuses to pay the ARCHITECT a reasonable fee for such Additional Services, such reasonable fee may, as provided in the agreement between the TOWN and Contractor, be paid by the TOWN to the ARCHITECT and back-charged by the TOWN to Contractor.

1.9.13 RFI's and CHANGE ORDERS

- 1.9.13.1 RFI's. The ARCHITECT will acknowledge the receipt of each Contractor-generated Request for Information (hereinafter "RFI") within five working (5) days after receiving it. The ARCHITECT will simultaneously issue a written responsive answer to the Contractor and the TOWN for each RFI along with necessary descriptive drawings, specifications, or other documents with the promptness necessary to avoid unnecessary delay or cost but in no case no more than five working (5) days after the RFI is received by the ARCHITECT, subject to the TOWN, in its sole discretion, extending the

time for responding to an RFI based upon a written request by the ARCHITECT setting forth the reasons for the extension. Approval of requests for extensions of time to respond to RFIs will not be unreasonably withheld by TOWN. Time is of the essence with respect to the ARCHITECT's review as referenced herein and for delivery of the documents and Services referenced herein.

- 1.9.13.2 Change Orders. The ARCHITECT will review and comment upon or take other appropriate action on proposed change orders prepared by the Contractor and review same with the TOWN for the TOWN's subsequent authorization in accordance with Contract Documents. The ARCHITECT will also analyze written requests by the TOWN for such changes in the Work. The ARCHITECT shall deliver the results of his analysis of all such proposed change orders in writing to the TOWN and Contractor within a reasonable time but in no case shall ARCHITECT's delivery of results of analysis be later than five working (5) days after the ARCHITECT's receipt of the request. If necessary, the ARCHITECT shall prepare, reproduce and distribute Drawings and Specifications to describe Work to be added, deleted or modified. The ARCHITECT will modify, clarify, reproduce and distribute Drawings and Specifications or other Contract Documents at no charge or expense to the TOWN, if the modification and/or clarification is the result of an error, omission or ambiguity created by the ARCHITECT.
- 1.9.14 The ARCHITECT, upon approval by TOWN, shall have authority to order minor changes in Work not involving an adjustment in the Contract Sum or an extension of the Contract Time and which are not inconsistent with the intent of the Construction Documents. Such proposed changes shall **first** be reviewed with the TOWN and ultimately be memorialized by written order issued to the Contractor.
- 1.9.15 The ARCHITECT shall conduct inspections to determine the dates of Substantial Completion and Final Completion of the Work and shall issue appropriate Project Certificates for Payment as requested by the TOWN and Contractor.
- 1.10 The extent of the duties, responsibilities and limitations of authority of the ARCHITECT as a representative of the TOWN during construction shall not be modified or extended without the written consent of the TOWN and the ARCHITECT.
- 1.11 Whether provided by the Construction Manager or determined through site visits, the ARCHITECT shall maintain written records to document all changes in the Work in a form that the TOWN may reasonably require. In addition, ARCHITECT will prepare a CADD file set of final record drawings based upon redlined/as-built drawings submitted by the Construction Manager/Contractor. These final record drawings in electronic CADD format will be delivered to the TOWN at the same time as Final Payment is made by the TOWN to reflect all changes to the permit set of drawings on file with the building department.

- 1.12 The following items are not a part of this Agreement, but may be added as Additional Services, for an additional fee.
- A. Interior design, except color palette, floor finishes, ceiling finishes, wall finishes, built-in cabinetry and conduit and boxes for A/V and data are included.
 - B. Cost-Estimating

ARTICLE 2 - TOWN-PROVIDED ITEMS

- 2.1 The TOWN's preliminary program requirements sets forth the TOWN's objectives, known constraints and criteria for the Project. The TOWN'S listing of its preliminary project requirements is attached hereto as **Exhibit "A"** and shall be utilized by the ARCHITECT to prepare the Project Program.
- 2.2 The ARCHITECT shall be entitled to rely on the accuracy and completeness of the information provided by the TOWN. The ARCHITECT shall not be held responsible for any errors or omissions that may arise solely as a result of erroneous or incomplete information provided by the TOWN and/or the TOWN's consultants, provided, however, this does not relieve the ARCHITECT of its obligation to report any observed error or inconsistency with the intent of the Project Program.

ARTICLE 3 – FEES/COMPENSATION

- 3.1 The Town shall pay the ARCHITECT, as total compensation to the ARCHITECT for the Project, a sum based on the rate of five percent (5%) of each \$100,000.00 increment of the Cost of the Work for the Project, unless there is a major increase in the scope of the Project, in which case the rate would increase to six percent (6%) of each additional \$100,000.00 increment of the Cost of the Work for the Project beyond the first \$300,000.00 (the "Architect's Total Compensation"). At the time of entering into this Agreement, the Architect's Total Compensation is anticipated to be \$18,000.00. The Architect's Total Compensation includes all fees, costs and expenses that may be incurred by the ARCHITECT to complete the design and construction administration of the Project, including, but not limited to, all professional services provided by or through the ARCHITECT, drawings, calculations and other documents, travel expenses and all other costs or expenses, for or related to the Project.
- 3.2 Payment on account of services rendered, shall be made monthly, based on the percentage of completion of the Project, upon presentation of the ARCHITECT's invoice for same, along with a partial waiver and release from ARCHITECT indicating a release of all claims, including, but not limited to, equitable liens, through the last date of services rendered and included in the invoice. Should any portion of the invoice be in dispute, other portions, if any, that are not in dispute or not deemed, by the TOWN, to be funds likely necessary to be put towards the issue in dispute, shall be paid per the terms of this Agreement. Any billing concerns shall be submitted in writing by the TOWN to the ARCHITECT describing the disputed portion of the invoice in detail for discussion and resolution.

- 3.4 Payment on account of undisputed amounts of the Architect's Total Compensation shall be made within thirty (30) days of invoice date.
- 3.5 Payments due the ARCHITECT and unpaid past sixty (60) days shall bear interest at the statutory rate set by the State of Florida for the year in which said payment became due.
- 3.6 Payment for the ARCHITECT's services will be made in accordance with the local government Prompt Payment Act Section 218.73, Florida Statutes (2009).

ARTICLE 4 - CHANGE IN SERVICES

4.1 Change in the services to be performed by the ARCHITECT or the ARCHITECT's consultants, may only be accomplished after execution of this Agreement, without invalidating the Agreement, by mutual agreement and execution of a written Change in Services Authorization. ARCHITECT assumes all risks and responsibilities for performing all Services on behalf of the TOWN for the amount determined in accordance with Article 3. The TOWN shall not be liable for any cost increases that may arise during the performance of Services. Any adjustments to the Services by written Change in Services Authorization issued in accordance with the terms and conditions of this Agreement. To the extent that ARCHITECT proceeds to perform additional Services in excess of those Services described in Exhibit "B" without an executed written Change in Services Authorization issued in accordance with this Agreement, such Services shall be at ARCHITECT'S own risk at no charge to TOWN.

4.2 Any change in Services shall be invoiced at an agreed to Lump Sum Fee for the work described, or in the absence of an established fee, the current fee structure shall apply. The firm's current hourly rates are as follows:

A.	Principal	\$175.00
B.	Project Architect	\$125.00
C.	Job Captain	\$95.00
D.	Graduate Architect	\$75.00
E.	Support Staff/Administrative	\$65.00

4.3 If any of the following circumstances affect the ARCHITECT's services for the Project, the ARCHITECT shall be entitled to an appropriate adjustment in the ARCHITECT's schedule and compensation:

- A. TOWN's material change in Project Program; and
- B. Changes or revisions in code, laws regulations or official interpretations, not reasonably anticipatable by ARCHITECT prior to performance of services and which necessitate changes to completed services.

ARTICLE 5 - OWNERSHIP OF DOCUMENTS

- 5.1 Drawings, specifications and other documents, including those in electronic form, prepared by the ARCHITECT and the ARCHITECT's consultants are Instruments of Service. The ARCHITECT and the ARCHITECT's consultants shall be deemed the authors and owners of their respective Instruments of Service and shall retain all common law, statutory and other reserved rights, including copyrights. The TOWN's right of use in accordance with this Paragraph specifically authorizes the TOWN to utilize the Instruments of Service to complete the Project as well as to perform alterations, repair and additions to the Project. This right of use applies even if this Agreement is terminated. In that event, the TOWN will be entitled to continue to utilize the Instruments of Service and shall have the unrestricted right to use, reproduce and to make derivative works of the Instruments of Service to complete the Project as long as the TOWN has paid ARCHITECT for all fees associated only with the preparation of the Instruments of Service in accordance with this Agreement. Should this Agreement be terminated, ARCHITECT and its consultants will continue to own the copyright to these Instruments of Service in accordance with this Agreement. However, the TOWN will, through an irrevocable, perpetual, royalty-free license, have the exclusive right to use the Instruments of Service, without restriction or limitation, to construct the buildings and improvements relative to this Project as well as repair, maintain or construct future additions to the Project. Upon the TOWN's request, the ARCHITECT and its consultants will furnish to the TOWN, copies, including reproducible copies, electronic data and computer files of the Drawings and Specifications and other Instruments of Service.
- 5.2 Submission or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the TOWN's or ARCHITECT's rights.
- 5.3 ARCHITECT represents and warrants to TOWN that it is the owner of all Instruments of Service prepared by itself and has the sole authority to grant TOWN use provisions of these Instruments of Service in accordance with this Agreement. With respect to Instruments of Service for the Project owned by ARCHITECT's consultants, ARCHITECT, in its agreement with such consultants to provide services for this Project, shall cause such consultants to grant to the TOWN the same use provisions as are included herein.

ARTICLE 6 - TERMINATION BY ARCHITECT

- 6.1 If the TOWN fails to make payment for services not in or related to a dispute, for more than 60 days after such payment is due or otherwise materially defaults under the terms of this Agreement, the ARCHITECT, provided it is not in default, may, after 10 days written notice to the TOWN of such default, terminate the Agreement.

ARTICLE 7: TERMINATION BY TOWN

- 7.1 This Agreement may be terminated by the TOWN for convenience upon at least seven days' written notice to the ARCHITECT. Under such conditions, ARCHITECT will only be

entitled to receive compensation for Services rendered that are specifically within the Phase of the Services for which the Town Administrator has, in writing, authorized ARCHITECT to proceed and up to the date that written notice for such termination for convenience is issued by the Town to ARCHITECT. ARCHITECT will also be able to recover its direct, actual and reasonable expenses that are directly attributed to the termination for convenience. Upon receipt of a notice of termination for convenience by the TOWN, the ARCHITECT will initiate all reasonable steps to mitigate further damages from accruing. No other compensation and/or damages will be due ARCHITECT from the TOWN pursuant to this Paragraph.

7.2 In addition to defaults resulting from the ARCHITECT's failure to strictly comply with any term, condition, or agreement set forth herein, the ARCHITECT shall be in default under this Agreement if:

- A. The ARCHITECT ceases to carry the insurance required hereunder or the insurance is cancelled.
- B. A default should occur in the performance of any consultant or engineer employed by the ARCHITECT and not corrected by ARCHITECT or another replacement consultant or engineer employed by ARCHITECT within ten (10) days after notice from Owner.
- C. The ARCHITECT fails to timely pay any consultant employed by the ARCHITECT. Notwithstanding the foregoing, ARCHITECT shall have the right to contest disputed invoices in good faith, without being in default of this Agreement but will bond off any liens filed in connection therewith within ten (10) days of the filing of a lien.
- D. The ARCHITECT fails to correct any error or material inconsistency in the Drawings and Specifications or other Instruments of Service within ten (10) days after such error or material inconsistency is reported to the ARCHITECT.
- E. The ARCHITECT fails to perform its obligations under this Agreement in a timely and expeditious manner within ten (10) days after notice from the Town.
- F. The ARCHITECT fails, within a reasonable time, to approve or comment on any shop drawing, sample or other submittal, or fails to provide adequate basis for rejection of any of the same.

7.3 In the event of termination due to the fault of the ARCHITECT under this Agreement, the TOWN shall be compensated for all reasonable costs and expenses including any attorneys' fees and costs incurred in connection with replacing the ARCHITECT hereunder in reviewing, analyzing, or enforcing the TOWN's rights hereunder or in connection with a replacement ARCHITECT and the completion of the ARCHITECT's Services hereunder. This is not intended to limit the TOWN's rights or ability to recover damages in the event of a breach by the ARCHITECT under this Agreement. Additionally, the TOWN shall have the

proper office of the insurer, evidencing in particular those insured, the extent of the Insurance, the location of and the operations to which the mentioned notice of cancellation clause applies. ARCHITECT shall require that all of ARCHITECT's subconsultant, including the civil engineering structural and mechanical, electrical and plumbing (MEP) consultants, acquire and maintain Professional Liability Insurance for acts or omissions and negligence in a minimum amount of Two Million Dollars (\$2,000,000.00) and all consultants will carry General Liability Insurance and Worker's Compensation Insurance and that these coverages will be in effect during performance of all Services by ARCHITECT's consultants for the Project.

- 8.4 **Indemnification:** To the fullest extent permitted by law and in accordance with Florida Statute §725.08, ARCHITECT will indemnify and hold harmless the TOWN and its officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the ARCHITECT and other persons employed or utilized by the ARCHITECT in the performance of services rendered for the Project pursuant to this Agreement. The foregoing obligations of the ARCHITECT are in addition to its other obligations under this Agreement. This provision shall survive the termination or expiration of this Agreement.
- 8.5 **Successors and Assigns.** This Agreement is binding upon the parties hereto, their successors and assigns and replaces, provided, however, neither party shall assign or transfer any interest in this Agreement without the written consent of the other party.
- 8.6 **NO DAMAGE FOR DELAYS BY TOWN.** ARCHITECT's sole remedy for any (i) delay in the commencement, prosecution, or completion of its Services, (ii) hindrance or obstruction in performance of its Services, (iii) loss of productivity, or (iv) other similar claims (collectively referred to in this subparagraph as "delays"), whether or not such delays are foreseeable, shall be a non-compensable extension to the Milestone Schedule, attached hereto as **Exhibit "D"**. The TOWN shall act reasonably in granting extensions of time to the Milestone Schedule. All extensions to the Milestone Schedule shall be authorized only by written Change in Services Authorization executed by the TOWN and ARCHITECT. In no event shall the ARCHITECT be entitled to any other compensation or recovery of any damages under or pursuant to this subparagraph in connection with any delay, including, without limitation, consequential damages, lost opportunity costs, impact damages or other similar remuneration.
- 8.7 **ARCHITECT'S Accounting and Project Records -- Audit And Inspection Rights And Retention Of Records:** TOWN shall have the right to audit the books, records and accounts of ARCHITECT that are related to this Agreement. ARCHITECT shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement.

ARCHITECT shall preserve and make available, at reasonable times for examination and audit by TOWN, all financial records, supporting documents, statistical records, and any

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

In addition, ARCHITECT shall respond to the reasonable inquiries of successor ARCHITECTs and allow successor ARCHITECTs to receive working papers relating to matters of continuing significance.

In addition, ARCHITECT shall provide a complete copy of all working papers to the TOWN, prior to final payment by the TOWN under this Agreement.

- 8.8 **Continuation of Work/Services in Event of Dispute:** Notwithstanding anything contained in this Agreement to the contrary, in the event of any dispute noticed in writing between the TOWN and the ARCHITECT, the ARCHITECT and, if applicable, its consultants will continue to work on and provided Services for the Project pursuant to the terms of this Agreement so long as the ARCHITECT receives payment for the matter(s) not in dispute.
- 8.9 **TOWN's Approvals:** Review and approval of documents or submittals by the TOWN shall be for general design compliance and approval of Project Program requirements and shall not relieve the ARCHITECT of any responsibility or liability hereunder. Upon TOWN-approved completion of each phase of this Agreement by the ARCHITECT, the TOWN shall provide its written approval signed by the Town Administrator. Additionally, notwithstanding TOWN approval of completion of a phase of the Agreement, the ARCHITECT is not authorized to proceed with the next phase of the Agreement unless and until the ARCHITECT receives a written and executed work order to so proceed that has been signed by the Town Administrator.
- 8.10 **Entire Agreement:** This Agreement is deemed effective only upon execution by both parties. Additionally, this written Agreement represents the entire and integrated Agreement between the TOWN and the ARCHITECT and supersedes all prior negotiations or agreements, either written or oral. This Agreement may be amended only if agreed to by both parties, in writing.

right to use the ARCHITECT's Drawings, Specifications and other Instruments of Service in the event of a default by the ARCHITECT, regardless of the payment status for such Instruments of Service.

ARTICLE 8 - MISCELLANEOUS PROVISIONS

8.1 **Governing Law, Jurisdiction, Venue and Attorney's Fees:** In the event of any action, litigation, or proceedings of any type regarding or relating to performance of this Agreement, the prevailing party shall be entitled to recover its reasonable costs, expert's fees and attorney's fees at all hearing, trial, bankruptcy, and appellate levels. All disputes pursuant to this Agreement shall be first subject to mediation in Broward County with a Florida Supreme Court Certified Mediator who is knowledgeable in construction projects similar to the Project. Failing resolution by mediation, any litigation shall be filed in a court of competent jurisdiction and the sole and exclusive venue shall be in Broward County, Florida. This Agreement shall be governed by the laws of the State of Florida.

8.1.1 WAIVER OF RIGHT TO JURY TRIAL

BY ENTERING INTO THIS AGREEMENT, ARCHITECT AND TOWN HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY IN ANY CIVIL LITIGATION RELATED TO, OR ARISING OUT OF THIS AGREEMENT.

8.2 **Defined Terms:** Terms in this Agreement, unless otherwise defined herein, shall have the same meaning as those in the 2007 Edition of AIA Document A201, General Conditions of the Contract for Construction.

8.3 **Insurance:** ARCHITECT will carry Professional Liability Insurance for negligent acts or omissions in a minimum amount of Two Million Dollars (\$2,000,000.00), as well as General Liability Insurance and Worker's Compensation Insurance (these insurance requirements shall, unless otherwise stated, hereinafter be collectively referred to as "Insurance"). ARCHITECT shall cause its consultants to provide this same Insurance. These insurance policies will provide coverage for the performance of all Services rendered by ARCHITECT for the Project. ARCHITECT will obtain all Insurance required hereunder and will furnish Certificate(s) of Insurance to the TOWN, to be attached to this Agreement as **Exhibit "E"**. All policies of insurance will be available for the TOWN's inspection and copying, upon request, prior to and following execution of this Agreement. The insurance policies and Certificate of Insurance describing the General Liability coverage acquired and maintained by the ARCHITECT and its consultants for the Project shall list the TOWN as additional insureds by a separate written endorsement to the policy to be delivered to the TOWN prior to the ARCHITECT rendering Services for the Project. A company licensed in the State of Florida must write the Insurance required by this Agreement and the company(ies) must be reasonably acceptable to the TOWN. ARCHITECT will not cause any Insurance policies to be cancelled or permit them to lapse during the period of performance of this Agreement. All policies must provide that the TOWN shall receive not less than thirty (30) days advance written notice of any cancellation. Certificates of Insurance shall be authenticated by the

- 8.11 **Invalid Provisions:** Any term or provision of this Agreement found to be invalid under any applicable Statute or rule of law shall be deemed omitted, and the remainder of this Agreement shall remain in full force and effect.
- 8.12 **Non-discrimination:** ARCHITECT shall not discriminate against any client, employee or applicant for employment because of race, gender, age, color, religion, sex, national origin, physical or mental disability, marital status or medical status. ARCHITECT shall take affirmative action to ensure that applicants, subcontractors, Independent Contractors, and employees are treated without discrimination in regard to their race, gender, color, religion, sex, national origin, disability, or medical status. ARCHITECT shall comply with all applicable sections of the Americans with Disabilities Act. ARCHITECT agrees that compliance with this Article constitutes a material condition to this Agreement, and that it is binding upon the ARCHITECT, its successors, transferees, and assignees for the period during which any Services are provided. ARCHITECT further assures that all consultants and subcontractors and independent contractors are not in violation of the terms of this Section of the Agreement.
- 8.13 **Sovereign Immunity:** Nothing in this Agreement is intended nor shall it be construed or interpreted to waive or modify the Town's Sovereign Immunity defense or any other of the Town's immunities and limitations on liability as provided for in Florida Statutes, as now worded or as may hereafter be amended and all Florida case law interpreting same.
- 8.14 **No Third Party Beneficiaries:** This Agreement is solely for the benefit of the parties hereto, and is not entered into for the benefit of any other person or entity. Nothing in this Agreement shall be deemed or construed to create or confer any benefit, right or cause of action for any third party or entity.
- 8.15 **Funding:** The obligation of Town for payment to ARCHITECT for Services is limited by Florida law to the availability of funds appropriated in a current fiscal period, and continuation of any contractual relationship into a subsequent fiscal period is subject to appropriation of funds, unless otherwise authorized by law.
- 8.16 **Manner of Performance:** ARCHITECT agrees to perform its Services in a professional manner and in accordance with all applicable Local, State, County, and Federal laws, rules, ordinances, regulations and codes. ARCHITECT agrees that the Services provided shall be provided by employees that are educated, trained, experienced, certified, and licensed in all areas encompassed within their designated duties. ARCHITECT agrees to furnish to Town any and all documentation, certification, authorization, license, permit, or registration currently required by applicable laws, rules, and regulations. ARCHITECT further certifies that it and its employees will keep all licenses, permits, registrations, authorizations, or certifications required by applicable laws or regulations in full force and effect during the term of this Agreement. Failure of ARCHITECT to comply with this paragraph shall constitute a material breach of this Agreement.

- 8.17 **Public Records:** The TOWN is subject to Chapter 119, Florida Statutes, the "Public Records Law." No claim of confidentiality or proprietary information in all or any portion of a response will be honored unless a specific exemption from the Public Records Law exists and it is cited in the response. An incorrectly claimed exemption does not disqualify the firm, only the exemption claimed. ARCHITECT understands that the public shall have access, at all reasonable times, to all documents and information pertaining to TOWN's contracts, subject to the provisions of Chapter 119, Florida Statutes, and agrees to allow access by the TOWN and the public to all documents subject to disclosures under applicable law. ARCHITECT's failure or refusal to comply with the provisions of this section shall result in the immediate cancellation of this Agreement by TOWN.
- 8.18 **Public Entity Crimes:** In accordance with the Public Entity Crimes Act (Section 287.133, Florida Statutes), a person or affiliate who has been placed on the convicted vendor list maintained by the State of Florida Department of General Services following a conviction for a public entity crime may not submit a proposal on a contract with TOWN, may not be awarded or perform work as an architect, contractor, supplier, or subcontractor, under a contract with TOWN, and may not conduct business with TOWN for a period of **thirty six (36) months** from the date of being placed on the convicted vendor list. Violation of this section by ARCHITECT shall result in TOWN's immediate termination of this Agreement.
- 8.19 **Change in Services Authorizations and Modification of Agreement:** TOWN and ARCHITECT may request changes that would increase, decrease or otherwise modify the Scope of Services to be provided under this Agreement. Such changes only become part of this Agreement and increase, decrease or otherwise modify the Services or the Agreement Sum under this Agreement if evidenced by a written Change in Services Authorization executed by TOWN and ARCHITECT, with the same formality and of equal dignity associated with the original execution of the Agreement.
- 8.20 **No Waiver of Rights:** Neither the TOWN's review, approval or payment for any of the Services required under this Agreement shall be construed to operate as a waiver of any of TOWN's rights under this Agreement or of any causes of action arising out ARCHITECT's performance of the Services under this Agreement, and ARCHITECT shall be and remain liable to the TOWN for all damages to the TOWN caused by the ARCHITECT's negligent or improper performance of any of the Services furnished under this Agreement, irrespective of the TOWN's review, approval or payment for any of the Services under this Agreement. The rights and remedies of the TOWN provided for under this Agreement are in addition to all other rights and remedies provided to TOWN by law.
- 8.21 **Gender:** Wherever the context shall so require, all words herein in the masculine gender shall be deemed to include the feminine, and all words herein in the feminine gender shall be deemed to include the masculine. All singular words shall include the plural, and all plural words shall include the singular.
- 8.22 **Time is of the Essence:** Time is of the essence for all of ARCHITECT's obligations under this Agreement.

8.23 **Days:** The terms “days” as referenced in this Agreement shall mean consecutive calendar days, unless specifically stated to be “work days.”

8.24 **EQUAL OPPORTUNITY EMPLOYMENT**

A. ARCHITECT will take affirmative action to ensure that employees are treated during employment, without regard to their race, creed, gender, color or national origin. Such action must include, but not be limited to the following: employment, upgrading; demotion or transfer; recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. ARCHITECT shall agree to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of the nondiscrimination clause included in section 8.12 of this Agreement.

B. ARCHITECT shall comply with Executive Order 11246 of September 24, 1965 entitled “Equal Employment Opportunity”, as amended by Executive Order 11375 of October 13, 1967 and as supplemented in Department of Labor Regulations (41 CFR Part 60).

C. ARCHITECT shall comply with Copeland Anti-Kickback Act (18USC 874), as supplemented in Department of Labor Regulations (29 CFR Part 3).

D. ARCHITECT shall comply with the Contract Work Hours and Safety Standards Act (40 US 327-330), as supplemented by Department of Labor Regulations (29 CFR Part 5).

8.25 **Notices:** Notices shall be given by Certified Mail (RRR), recognized overnight delivery service with tracking receipt, or hand delivery or courier with signed receipt. Notices shall be given to the following addresses:

AS TO TOWN:

Town of Southwest Ranches
6589 S. W. 160 Avenue
Southwest Ranches, Florida 33331

Attn: Mr. Charles H. Lynn

AS TO ARCHITECT:

Manuel Synalovski Associates LLC
7027 West Broward Blvd., #324
Plantation, Florida 33317

Attn: Ms. Merrill Romanik

With a copy to:

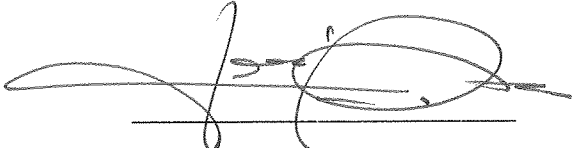
Becker & Poliakoff, P.A.
3111 Stirling Rd.
Ft. Lauderdale, FL 33312
Attn: Keith M. Poliakoff, J.D.

- 8.26 **Independent Contractor:** ARCHITECT is an independent contractor of TOWN under this Agreement. In providing Services, neither ARCHITECT nor its agents shall act as officers, employees or agents of the TOWN. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to the Services rendered under this Agreement shall be exclusively and solely those of ARCHITECT. This Agreement shall not constitute or make TOWN and ARCHITECT a partnership or joint venture.
- 8.27 **Conflicts:** Neither ARCHITECT nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with ARCHITECT's loyal and conscientious exercise of judgment related to its performance under this Agreement.
- A. ARCHITECT agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against TOWN in any legal or administrative proceeding in which he or she is not a party, unless compelled by court process. Further, ARCHITECT agrees that such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of TOWN in connection with any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude ARCHITECT or any other persons from representing themselves in any action or in any administrative or legal proceeding.
- B. In the event ARCHITECT is permitted to utilize consultants or subcontractors to perform any Services required by this Agreement, ARCHITECT agrees to prohibit such consultants or subcontractors, by written contract, from having any conflicts within the meaning of this Section.
- 8.28 **Contingency Fee:** ARCHITECT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for ARCHITECT, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for ARCHITECT, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, TOWN shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the Agreement price or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration.
- 8.29 **Materiality and Waiver of Breach:** TOWN and ARCHITECT agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. TOWN's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

- 8.30 **Joint Preparation:** TOWN and ARCHITECT both acknowledge that they have sought and received whatever competent advice and legal counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.
- 8.31 **Drug-Free Workplace:** ARCHITECT shall maintain a drug-free workplace.
- 8.32 **Headings:** Headings are for convenience of reference only and shall not be considered in any interpretation of this Agreement.
- 8.33 **Binding Authority:** Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.
- 8.34 **Truth-in-Negotiation Certificate:** Signature of this Agreement by ARCHITECT shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting.

IN WITNESS WHEREOF, the parties have made and executed this Agreement on the respective dates under each signature: MANUEL SYNALOVSKI ASSOCIATES and THE TOWN OF SOUTHWEST RANCHES, signing by and through its Mayor duly authorized to execute same by Council action on the 15th day of September, 2010.

WITNESSES:

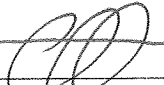


Debra Dore-Thomas

WITNESSES:

ARCHITECT:

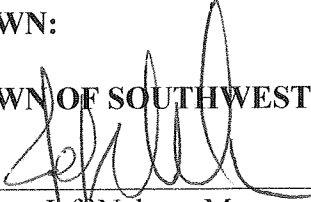
MANUEL SYNALOVSKI ASSOCIATES LLC

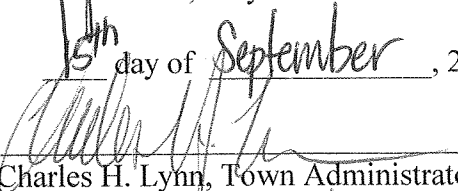
By: 

Manuel Synalovski, Manager
15 day of Sept., 2010

TOWN:


TOWN OF SOUTHWEST RANCHES

By: 

Jeff Nelson, Mayor
15th day of September, 2010
By: 

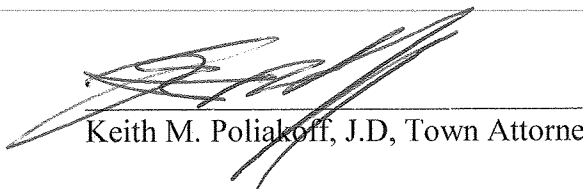
Charles H. Lynn, Town Administrator
15th day of September, 2010

ATTEST:



Debra Dore-Thomas, cmc, Town Clerk

APPROVED AS TO FORM AND CORRECTNESS:



Keith M. Poliakoff, J.D., Town Attorney

LIST OF EXHIBITS

EXHIBIT "A"	Town's Requirements for Project Program
EXHIBIT "B"	Project Scope, including items excluded from Project Scope
EXHIBIT "C"	Project Budget
EXHIBIT "D"	Project Milestone Schedule
EXHIBIT "E"	ARCHITECT's Certificate(s) of Insurance

ACTIVE: S20572/077455:3062885_3
9/8/10 3:44 PM

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
9/20/2010

PRODUCER
ISU Suncoast Insurance Assoc
 P.O. Box 22668
 Tampa, FL 33622-2668
 289-5200

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE

NAIC #

INSURED
Manuel Synalovski Associates, LLC
 1800 Eller Drive #500
 Fort Lauderdale, FL 33316

INSURER A: **MSA Insurance Company** **11066**

INSURER B: **NGM Insurance Company** **14788**

INSURER C: **XL Specialty Insurance Company** **37885**

INSURER D:

INSURER E:

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	ADD'L INSR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A	X	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	BPG2189B <i>RECEIVED</i> <i>SEP 23 2010</i>	12/23/09	12/23/10	EACH OCCURRENCE	\$1,000,000
						DAMAGE TO RENTED PREMISES (Ea occurrence)	\$300,000
						MED EXP (Any one person)	\$5,000
						PERSONAL & ADV INJURY	\$1,000,000
						GENERAL AGGREGATE	\$2,000,000
						PRODUCTS - COMP/OP AGG	\$2,000,000
A	X	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	BPG2189B	12/23/09	12/23/10	COMBINED SINGLE LIMIT (Ea accident)	\$1,000,000
						BODILY INJURY (Per person)	\$
						BODILY INJURY (Per accident)	\$
						PROPERTY DAMAGE (Per accident)	\$
		GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT	\$
						OTHER THAN AUTO ONLY: EA ACC	\$
						AGG	\$
		EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE RETENTION \$				EACH OCCURRENCE	\$
						AGGREGATE	\$
							\$
							\$
							\$
B		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below	WCG2723B	12/23/09	12/23/10	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER	
						E.L. EACH ACCIDENT	\$1,000,000
						E.L. DISEASE - EA EMPLOYEE	\$1,000,000
						E.L. DISEASE - POLICY LIMIT	\$1,000,000
C		OTHER Professional Liability	DPR9684037	12/10/09	12/10/10		\$1,000,000 per claim \$5,000,000 annl aggr.

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS

Project: Town of Southwest Ranches - Town Hall Renovations

The Town of Southwest Ranches is listed as an Additional Insured with regards to the Commercial General Liability and Automobile Liability policy. Professional Liability is written on a claims made and reported basis.

CERTIFICATE HOLDER

CANCELLATION 10 Days for Non-Payment

Town of Southwest Ranches
 6589 SW 160 Avenue
 Southwest Ranches, FL 33331

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE



IMPORTANT

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

DISCLAIMER

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
9/20/2010

PRODUCER ISU Suncoast Insurance Assoc P.O. Box 22668 Tampa, FL 33622-2668 813 289-5200	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
	INSURED Manuel Synalovski Associates, LLC 1800 Eller Drive #500 Fort Lauderdale, FL 33316	INSURERS AFFORDING COVERAGE INSURER A: MSA Insurance Company INSURER B: NGM Insurance Company INSURER C: XL Specialty Insurance Company INSURER D: INSURER E:

COVERAGES

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		EXCESS/UMBRELLA LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> DEDUCTIBLE <input type="checkbox"/> RETENTION \$				EACH OCCURRENCE	\$
						AGGREGATE	\$
							\$
							\$
B		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? If yes, describe under SPECIAL PROVISIONS below	WCG2723B	12/23/09	12/23/10	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER	
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CERTIFICATE HOLDER

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