

**CITY OF MIRAMAR  
PROPOSED CITY COMMISSION AGENDA ITEM**

**Meeting Date:** March 18, 2026

**Presenter's Name and Title:** Daryll Johnson, Project Management Administrator on behalf of Support Services; and Alicia Ayum, Director, on behalf of Procurement

**Prepared By:** Daryll Johnson, Project Management Administrator, Support Services

**Temp. Reso. Number:** 8268

**Item Description:** Temp. Reso. #R8268 APPROVING THE AWARD OF CONSTRUCTION MANAGER AT RISK - REQUEST FOR INFORMATION NO. CMR-RFQ 25-08-35 (RE-BID), FOR THE PROJECT ENTITLED, "PRE-CONSTRUCTION AND CONSTRUCTION MANAGER AT RISK SERVICES FOR THE NEW COMMUNITY RECREATION & MULTI-PURPOSE FACILITY"; AUTHORIZING THE CITY MANAGER TO EXECUTE THE PROPOSED CMR PRE-CONSTRUCTION CONTRACT AGREEMENT WITH H.A. CONTRACTING CORPORATION IN AN AMOUNT NOT-TO-EXCEED \$70,568; ALLOCATING A PROJECT CONTINGENCY ALLOWANCE OF \$4,000 FOR A TOTAL OF \$74,568. (SUPPORT SERVICES PROJECT MANAGEMENT ADMINISTRATOR DARYLL JOHNSON AND PROCUREMENT DIRECTOR ALICIA AYUM)

Consent  Resolution  Ordinance  Quasi-Judicial  Public Hearing

**Instructions for the Office of the City Clerk: Agreement signed on dais.**

**Public Notice** – As required by the Sec. \_\_\_\_ of the City Code and/or Sec. \_\_\_\_, Florida Statutes, public notice for this item was provided as follows: on \_\_\_\_\_ in a \_\_\_\_\_ ad in the \_\_\_\_\_; by the posting the property on \_\_\_\_\_ and/or by sending mailed notice to property owners within \_\_\_\_ feet of the property on \_\_\_\_\_ (fill in all that apply)

**Special Voting Requirement** – As required by Sec. \_\_\_\_\_, of the City Code and/or Sec. \_\_\_\_\_, Florida Statutes, approval of this item requires a \_\_\_\_\_ (unanimous, 4/5ths etc.) vote by the City Commission.

**Fiscal Impact:** Yes  No

**REMARKS:** Funding In the amount of \$70,568 is available in the City's Capital Improvement Program (CIP) Project No. 53027 – New Community Youth Center GL Account No. 395-55-800-575-000-606501-53027 entitled CIP-Plan/Design/Engineering; and \$4,000 in GL Account No. 395-55-800-575-000-606520-53027 entitled CIP-Contingency.

**Content:**

- **Agenda Item Memo from the City Manager to City Commission**
- **Resolution TR8268**
  - **Exhibit A: Contract Agreement with H. A. Contracting**
- **Attachment(s)**
  - **Attachment No. 1: Proposal from H. A. Contracting**



**CITY OF MIRAMAR  
INTEROFFICE MEMORANDUM**

**TO:** Mayor, Vice Mayor, and City Commissioners

**FROM:** Dr. Roy L. Virgin, City Manager

**BY:** Daryll Johnson, Project Management Administrator, Support Services

**DATE:** March 12, 2026

**RE:** Temp. Reso. No. 8268 approving the award of Request for Qualification No. CMR-RFQ 25-08-35 (RE-BID), entitled “Pre-Construction and Construction Manager at Risk Services for the New Community Recreation & Multi-Purpose Facility” in the amount not-to-exceed \$70,568 for Pre-Construction Services

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**RECOMMENDATION:** The City Manager recommends approval of Temp. Reso. No. 8268, approving the award of Request for Qualification (“RFQ”) No. 25-08-35 (RE-BID), entitled “Pre-Construction and Construction Manager at Risk Services for the New Community Recreation & Multi-Purpose Facility” to H. A. Contracting Corporation (“H. A. Contracting”); and authorizing the City Manager to execute the proposed Construction Manager at Risk (“CMR”) Pre-construction Contract Agreement with H. A. Contracting for the provision of pre-construction services in the amount not-to-exceed \$70,568, and allocating a project contingency allowance of \$4,000, for a total of \$74,568.

**ISSUE:** The City requests City Commission approval to award RFQ No. 25-08-35 to procure the CMR Preconstruction services of H. A. Contracting Corporation, to execute and establish a Guaranteed Maximum Price (“GMP”) for the proposed “New Community Recreation & Multi-Purpose Facility” Project, CIP No. 53027.

**BACKGROUND:** On September 26, 2024, the City Commission approved the FY2025 Budget, which included the proposed New Community Recreation & Multi-Purpose Facility, later renamed the “New Community Youth Center” CIP Project No. 53027.

On August 28, 2025, the City’s Procurement Department advertised CMR-RFQ No. 25-08-35 (RE-BID), Entitled: “Pre-Construction and Construction Manager at Risk Services for the New Community Recreation & Multi-Purpose Facility” on Demandstar.com. Broward County website, social media and the Sun Sentinel newspaper. On September 11, 2025, a pre-proposal meeting was conducted with ten (10) firms in attendance.

On the RFQ Due Date of October 2, 2025, the City received responses from eight (8) contracting firms.

On December 29, 2025, the selection committee evaluated the RFQ responses and references, in accordance with the minimum qualifications of the solicitation, and selected four (4) of the highest rated firm(s) to return for oral presentations based on their qualifications.

On January 15, 2025, City staff conducted the oral presentations and deemed H. A. Contracting as the highest rated responsive and responsible firm.

The City conducted negotiations with H. A. Contracting and received a cost proposal from them in the amount of \$70,568 for Pre-construction Services and establishment of the GMP.

**DISCUSSION:** The scope of work involves pre-construction and construction manager tasks including developing detailed cost estimates, the project budget and submitting a GMP for the project. It also includes analyzing designs to ensure project is buildable, creating preliminary schedules and proposing cost effective products and alternatives without compromising quality.

Commission approval will be required to approve the GMP once its established.

**ANALYSIS:** Funding in the amount of \$70,568 is available in the City's Capital Improvement Program (CIP) Project No. 53027 – New Community Youth Center, GL Account No. 395-55-800-575-000-606501-53027 entitled CIP-Plan/Design/Engineering; and \$4,000 from GL Account No. 395-55-800-575-000-606520-53027 entitled CIP-Contingency.

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**CITY OF MIRAMAR  
MIRAMAR, FLORIDA**

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF MIRAMAR, FLORIDA, APPROVING THE AWARD OF CMR – REQUEST FOR INFORMATION NO. CMR-RFQ – 25-08-35 (RE-BID) FOR THE PROJECT ENTITLED “PRE-CONSTRUCTION AND CONSTRUCTION MANAGER AT RISK SERVICES FOR THE NEW COMMUNITY RECREATION & MULTI-PURPOSE FACILITY”; AUTHORIZING THE CITY MANAGER TO EXECUTE THE PROPOSED CMR PRE-CONSTRUCTION CONTRACT AGREEMENT WITH H. A. CONTRACTING CORPORATION IN AN AMOUNT NOT-TO-EXCEED \$70,568.00; ALLOCATING A PROJECT CONTINGENCY ALLOWANCE OF \$4,000.00, FOR A TOTAL OF \$74,568.00; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City desires to procure the Construction Manager at Risk (CMR) Pre-construction services of H. A. Contracting to execute and establish a Guaranteed Maximum Price (“GMP”) for the proposed “New Community Youth Center” Project CIP No. 53027; and

**WHEREAS**, City Commission approval is requested for the award of the Request for Qualifications (“RFQ”) No. 25-08-35; and

**WHEREAS**, on September 26, 2024, the City Commission approved the FY2025 Budget, which included the proposed New Community Youth Center; and

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**WHEREAS**, on August 28, 2025, the City's Procurement Department advertised CMR-RFQ No. 25-08-35 (RE-BID), Entitled: "Pre-Construction and Construction Manager at Risk Services for the New Community Recreation & Multi-Purpose Facility" on Demandstar.com. and Sun Sentinel newspaper; and

**WHEREAS**, on October 2, 2025, the due date of the scheduled RFQ submissions, the City received responses from eight (8) contracting firms; and

**WHEREAS**, on December 29, 2025, evaluated the RFQ responses and References, in accordance with the minimum qualifications of the solicitation, then selected four (4) of the highest rated firms to return for oral presentations, based on their qualifications; and

**WHEREAS**, on January 15, 2026, oral presentations were conducted by the firms and staff deemed H. A. Contracting as the highest responsive and responsible firm; and

**WHEREAS**, the City conducted negotiations and accepted a cost proposal from H. A. Contracting in the amount of \$70,568 for Pre-construction Services and establishment of the Guaranteed Maximum Price; and

**WHEREAS**, the City Manager recommends that the City Commission approves the award of the RFQ to H. A. Contracting, and authorizes the City Manager to execute the proposed CMR Pre-construction Contract Agreement with H. A. Contracting, in the amount not-to-exceed \$70,568, and allocating a Project Contingency Allowance of \$4,000, for a total of \$74,568, in the form attached hereto as Exhibit "A;" and

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**WHEREAS**, the City Commission deems it to be in the best interest of the citizens and residents of the City of Miramar to award the RFQ to H. A. Contracting, and authorizes the City Manager to execute the proposed CMR Pre-Construction Contract Agreement with H. A. Contracting in an amount not-to-exceed \$70,568 and allocating a Project Contingency Allowance of \$4,000, for a total of \$74,568.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF MIRAMAR, FLORIDA AS FOLLOWS:**

**Section 1:** That the foregoing “**WHEREAS**” clauses are ratified and confirmed as Being true and correct and are made a specific part of this Resolution.

**Section 2:** That it approves the award of CMR-RFQ No. 25-08-35 (RE-BID) entitled: “Pre-Construction and Construction Manager at Risk Services for the New Community Recreation & Multi-Purpose Facility” to H. A. Contracting the highest rated contracting firm.

**Section 3:** That the City Manager is authorized to execute the proposed CMR Pre-construction Contract Agreement with H. A. Contracting., in the amount not-to-exceed \$70,568 and allocating a Project Contingency Allowance of \$4,000, for a total of \$74,568 in the form attached hereto as Exhibit “A,” together with such non-substantive changes as are deemed acceptable to the City Manager and approved as to form and legal sufficiency by the City Attorney.

**Section 4:** That the appropriate City Officials are authorized to do all things necessary and expedient to carry out the aims of this Resolution.

**Section 5:** That this Resolution shall take effect immediately upon adoption.

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**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Mayor, Wayne M. Messam

\_\_\_\_\_  
Vice Mayor, Yvette Colbourne

ATTEST:

\_\_\_\_\_  
City Clerk, Denise A. Gibbs

I HEREBY CERTIFY that I have approved  
this RESOLUTION as to form:

\_\_\_\_\_  
City Attorney,  
Austin Pamies Norris Weeks Powell, PLLC

<b><u>Requested by Administration</u></b>	<b><u>Voted</u></b>
Commissioner Maxwell B. Chambers	_____
Commissioner Avril Cherasard	_____
Vice Mayor Yvette Colbourne	_____
Commissioner Carson Edwards	_____
Mayor Wayne M. Messam	_____



**AGREEMENT FOR PRE-CONSTRUCTION AND  
 CONSTRUCTION MANAGER AT RISK SERVICES  
 BETWEEN THE CITY OF MIRAMAR, FLORIDA  
 AND  
H.A. CONTRACTING CORP.  
 FOR THE NEW COMMUNITY RECREATION & MULTI-PURPOSE FACILITY**

**THIS AGREEMENT** ("Agreement") is made effective on the last date of execution herein by and between the CITY OF MIRAMAR, FLORIDA (the "City"), a Florida municipal corporation, whose address is 2300 Civic Center Place, Miramar, Florida 33025, and H.A. CONTRACTING CORP., a Florida profit corporation whose principal address is 9500 N.W. 12<sup>th</sup> Street, Bay 1, Miami, Florida 33172 ("Contractor" or "CMR").

**WITNESSED:**

**WHEREAS**, the City intends to enter into a contract for Pre-Construction and Construction Manager at Risk Services for the New Community Recreation & Multi-Purpose Facility ("Work" or "Project") and desires to engage the services of Construction Manager at Risk ("CMR"); and

**WHEREAS**, the Contractor desires to act as CMR to the City to provide the Services as set forth in this Agreement and established in CMR-RFQ-HUD NO. 25-08-35 (RE-BID), incorporated for all purposes herein.

**NOW THEREFORE**, the City and CMR, in consideration of the mutual covenants hereinafter set forth, the receipt and sufficiency of which is acknowledged, agree as follows:

**ARTICLE 1  
DEFINITIONS**

Except as provided herein, terms used in this Agreement are defined in Request for Qualifications No. 25-08-35 (RE-BID) ("RFQ"), which is deemed fully incorporated herein for all purposes and have the meanings indicated in the RFQ and/or the General Terms and Conditions attached hereto and made a part hereof. In the event of conflict, the Grant Agreement #B-24-CP-FL-0666 shall first govern, followed by the definitions contained in the RFQ and the General Terms and Conditions incorporated herein by reference.

**ARTICLE 2**  
**CMR'S AND CITY'S RELATIONSHIP**

**2.1** The CMR accepts the relationship of trust and confidence established between it and the City by this Agreement. The CMR represents that it will furnish its best skill and judgment in performing the CMR's Services and the Work, and shall always act to further the interest of the City in the expeditious completion of the Project, at the lowest responsible cost to the City, and in strict accordance with the Contract Documents and prudent and customary construction practices.

**2.2** By signing this Agreement, the CMR accepts a fiduciary duty with the City and warrants and represents to the City that the CMR:

a) has all licenses and certifications required by applicable law to perform the CMR's Services and the Work;

b) is experienced in all aspects of Pre-Construction and construction planning for projects similar to the Project;

c) will act in the City's highest and best interest in performing the CMR's Services and the Work; and

d) that no employee or affiliate of the CMR, including all Subconsultants, Subcontractors and Suppliers, at any tier, has been convicted of a public entity crime, pursuant to section 287.133, Florida Statutes, within the preceding 36 months from the date of execution of this Agreement.

The CMR acknowledges and agrees that the City is relying on these representations and covenants as a material inducement to enter into this Agreement.

**ARTICLE 3**  
**THE CONSTRUCTION MANAGER SERVICES**

**3.1** The parties are entering into this Agreement before the GMP is established. Therefore, it is anticipated that one or more GMP Amendments will be executed to establish the GMP and incorporate subsequent documents that fully describe the Scope of the Work included in the GMP. Each such Contract Amendment and additional Contract Documents shall become a part of this Agreement as if fully set forth herein. Following the issuance of the initial Notice to Proceed from the City, the GMP for the Project must be established no later than June 15, 2026, (Project Schedule in Exhibit II to be submitted to and accepted by the City, as agreed to by the parties); otherwise this Agreement shall terminate pursuant to Article 10 herein.

**3.2** The Services to be provided by the CMR may include, but are not limited to, *Construction of +/- 12,000 SF State of the Art Recreation and Multi-Purpose Facility to include, but not limited to:* covered basketball court with bleacher seating; covered fitness court; shaded playground with rubber surfacing; and expanded covered drop off area and extended canopy; covered entrance; conference/multi-purpose rooms; covered lobby; administration office; restrooms; warming kitchen; and back-of-house service corridor. The Services described herein shall not be deemed to constitute a

comprehensive Specification having the effect of excluding Services not specifically mentioned. The CMR's Services shall include, without limitation, all of the Pre-Construction Services set forth in this Agreement and, upon approval by the City of the GMP, as contemplated in the GMP Amendment (or Amendments), and such other amendment(s) as necessary to fix and describe the parties' respective rights and responsibilities with respect to the Work and the Project, all of the Construction Services required to complete the Work in strict accordance with the Contract Documents, and to deliver the Project to the City at or below the GMP, when established, and within the Contract Time.

**3.3.** The CMR shall review Project requirements, existing on-site and off-site development, surveys and preliminary Budget, and make recommendations to the City for revisions. The CMR shall prepare a preliminary Project Schedule in accordance with the Contract Documents and in coordination with the City and the Architect/Engineer(s), identifying all phases, critical path activities, and critical duties of each of the Project team members. The CMR shall review the Plans and advise the City and the Architect/Engineer(s) regarding the constructability of the design, and of any errors, omissions, or conflicts it discovers. The CMR shall prepare an outline of proposed bid packages and detailed cost estimates, and advise the City regarding trends in the construction and labor markets that may affect the price or schedule of the Project. The CMR shall attend all Project related meetings. The CMR's Pre-Construction Services shall be provided, and the City shall compensate CMR for such Services, based upon a fixed fee, to be determined at negotiation between CMR and City and later reflected in the CMR's total fee. At the conclusion of the Pre-Construction Services, the CMR shall, without assuming the duties of the Architect/Engineer(s), warrant to the City that the Plans, Specifications, and other Contract Documents are consistent, practical, feasible and constructible, and that the Project is constructible within the Contract Time.

## **ARTICLE 4**

### **DUTIES AND RESPONSIBILITIES**

**4.1** The CMR shall perform the following responsibilities and duties:

All CMR procedures, recommendations, documentations, record retentions, etc. must conform to the Project requirements, including applicable sections of the City's procedures, Architect/Engineer(s)' procedural manual, master Specifications, General Conditions of the Construction Agreement, and other applicable codes, regulations and procedures that may be required at the state, county, city or any agency, utility or similar governmental entity level.

**4.1.1** Develop for City approval, and for full compliance by CMR, Project specific procedures manually detailing the entire Project process, including at minimum the following:

- a) Exhibit I (GMP Amendment); Exhibit II (Project Schedule); Exhibit III (Architect/Engineer(s) Agreement), *as required*; Exhibit IV (Proposal Documents Pursuant to the RFQ),

Section 4 (General Conditions of the Construction Contract), and this Agreement;

- b) Construction coordination, scheduling, communication and documentation procedures among the CMR, the Architect/Engineer(s), Subcontractor(s), Subconsultant(s), and other departments or organizations that require coordination with and/or input into the Work;
- c) Project reports (monthly);
- d) Requests for Information;
- e) Contract Amendment(s) process;
- f) Shop Drawing submittal; and
- g) Project closeout.

Said procedures manual is to be presented to the City and Architect/Engineer(s) no later than the date when the first Application for Payment is submitted.

**4.2.** CMR shall maintain an ongoing working relationship with the Architect/Engineer(s). However, nothing in this Agreement shall be construed to mean that the CMR assumes any of the responsibilities or duties of the Architect/Engineer(s). The CMR shall be solely responsible for construction means, methods, techniques, sequence and procedures used in the construction of the Project and for the safety of its personnel, property, and its operations for performing in accordance with the CMR's Agreement with the City. The Architect/Engineer(s) is responsible for the requirements of the Project, as indicated in the Agreement between the City and the Architect/Engineer(s). The CMR's Services shall be rendered compatibly and in cooperation with the Architect/Engineer(s)' Services to the City. It is not intended that the Services of the Architect/Engineer(s) and the CMR be competitive or duplicative, but rather, complimentary.

**4.3** The CMR shall meet immediately upon execution of this Agreement with the Architect/Engineer(s) and City representatives to review the Architect/Engineer(s) Agreement and the Project, as referenced in the schedule of the Architect/Engineer(s) Agreement. The CMR shall ensure that the parties jointly review, modify as necessary, and agree to a single schedule, to be called the revised most current schedule to the Architect/Engineer(s) Agreement. This schedule shall be submitted to the City within 14 Days of execution of this Agreement. Should the parties not be able to reach final agreement on a revised schedule for purposes of the Project, which includes a schedule for all CMR Services, which the CMR believes to be fair, reasonable, and in the best interest of the City, the City shall then determine what schedule is to be utilized, and the City's decision with regard to same shall be final and binding upon the parties.

**4.4** The CMR shall review all Construction Documents and make recommendations to the City and to the Architect/Engineer(s) as to constructability, cost, alternatives, sequencing, scheduling, and the time of construction, as to clarity,

consistency and coordination of documentation. The recommendations resulting from such review will be provided to the City and Architect/Engineer(s) in writing and as notations on the Construction Documents. This review and the accompanying written notations shall be submitted with the documents for review by the City throughout the Construction Document review process.

**4.5** The CMR, as a result of the above-noted review of the Construction Documents and recommendations provided to the City, shall utilize its best efforts to assure the coordination of Drawings with the written Specifications. This includes, but is not limited to, the CMR's review of the Construction Documents in coordination with the Drawings and Specifications themselves, with the existing buildings and sites to ensure proper coordination and constructability and lack of conflict, and to minimize unforeseen conditions. The CMR shall, during this phase, be responsible for the proper identification and location of all utilities, services, and other underground facilities which may impact the Project. The CMR specifically agrees that no Contract amendments shall be requested by the CMR or considered by the City for reasons involving conflicts in the documents, questions of clarity with regard to documents, incompatibility, or conflicts between the documents and Laws, the existing conditions, utilities, and unforeseen underground conditions.

**4.6** The CMR will submit to the Architect/Engineer(s) for comment, and to the City for approval, a proposed schedule for the Project at the time the Construction Documents are to be submitted to the City for review. That schedule shall include such bid and construction activities as well as reasonably outline the approach the CMR intends to take for the Project. This requirement is in addition to any other scheduling requirements which may be contained in the Contract Documents and shall be compatible with same. The CMR shall include in the above-noted schedule a proposed construction sequencing plan for the Work.

**4.7** The CMR shall prepare detailed cost estimates and updates throughout the Construction Document review phase leading up to the bidding phase of the Project. The CMR shall submit same with each submittal throughout the Construction Document review phase in accordance with the most current schedule of the Architect/Engineer(s)' Agreement and at such other times as may be requested by the City. The estimates by the CMR shall show the estimated amount of the GMP. They shall be in such detail as the City may require, and shall not exceed the construction Budget of \$7,000,000 - \$8,000,000.

- a) Should the CMR's estimated GMP exceed the Budget, the CMR shall include with said estimate written suggestions for bringing the Project within Budget. The City, at its sole option, may adjust the Budget or it may direct the CMR to coordinate with the Architect/Engineer(s) to reduce the estimated cost of the Project through Value Engineering, re-design by the Architect/Engineer(s), re-estimating, obtaining additional pricing, scope reduction and/or other cost savings option, in the best interest of the City, at no cost to the City,

or the City may choose to continue under subparagraph (b) below.

- b) The City shall determine, after receipt and review of each estimate, whether the CMR shall continue to perform the Services of the Agreement without requiring adjustment of the most current CMR-estimated GMP. The City may, at its sole option, determine to proceed with the Project without Budget adjustment or any other change to the Project. This shall in no way obligate the City to accept the CMR's GMP Proposal whether or not it is within the estimate or whether or not it is within the Budget. The City, in this and all cases, may reject the GMP at its sole discretion, and proceed to exercise its options as identified in this Agreement.
- c) The CMR and Architect/Engineer(s) shall advise the City immediately when the Architect/Engineer(s) or CMR estimate exceeds the Budget.
- d) CMR herein acknowledges that, prior to execution of this Agreement; it has received the City's written Budget for the Project.

**4.8** The CMR shall coordinate with and include activities in both the schedule referred to in this Section, and other schedules required in the Contract Documents, the Work of Contractors, testing labs, and other consultants employed by the City, as well as the reviews required by the City, other agencies and the Architect/Engineer(s).

**4.9** The CMR will be responsible for coordinating with the Architect/Engineer(s) the submittal of all required documents for permits including without limitation, any required revisions and re-submittals necessary to obtain a permit from the City Building Department. CMR shall be responsible for obtaining any and all permits and paying any and all related fees for the Work. The City shall not pay the CMR any additional sums beyond the Pre-Construction Services Fee and the GMP for these Services. Fees for building permits shall be the responsibility of the City.

**4.10** The CMR shall submit to the City the CMR's Memorandum of Changes in sufficient time and as scheduled so it may be reviewed by the Architect/Engineer(s) and the City against the Contract Documents and any corrections, modifications, additions, or changes to be incorporated prior to commencing the bid and award phase. The Memorandum of Changes shall include a summary of all recommendations made by the CMR in fulfilling the CMR's duties with regard to the Contract Documents. The CMR shall identify any recommendations not incorporated into the documents. The City shall either direct that same be incorporated or explain in writing why the recommendation is rejected.

**4.11** The CMR shall receive subcontract Proposals which, when combined with the Work the CMR intends to do with its own forces, shall represent the entirety of the Scope of Work required of this Agreement.

**4.12** The CMR shall schedule and conduct pre-bid conferences for Subcontractors to ensure the availability of such Subcontractors, Material Suppliers, etc., for this pre-bid conference. The CMR shall be solely responsible for the content of the pre-bid conference.

**4.13** The CMR shall schedule the acceptance, review and award of the bids to qualified responsive and responsible Subcontractors. Said bids from Subcontractors shall be in writing and shall be opened and reviewed with the Architect/Engineer(s) and the City prior to award by the CMR.

**4.14** After taking, reviewing and identifying the lowest acceptable bids from responsive and responsible Subcontractors, the CMR shall propose to the City, a GMP, which shall be the sum of the proposed subcontracts and the CMR's General Conditions (including any fee, profit, overhead and all like amounts) and the agreed upon Contingency. The GMP shall be the full and complete amount for which the CMR agrees to go forward from the receipt of subcontract bids to the full completion of the Project.

**4.15** Upon acceptance and execution of the GMP Proposal by the City, the CMR shall enter into subcontract agreements with Subcontractors selected for the amounts included in the GMP Proposal for that subcontract Work, and shall function as a General Contractor and comply with the Contract Documents accordingly with regard to the Project as well as a CMR with regard to other Services required by the Contract Documents.

**4.16** The CMR shall perform all the duties required by this Agreement in such a way and time as to conform to the most current Schedule of the Architect/Engineer(s)' Agreement.

**4.17** In executing the Agreement, the CMR acknowledges specifically that the CMR has reviewed the most current Schedule of the Architect/Engineer(s)' Agreement, has given any necessary input to the City regarding any need to modify that schedule to accommodate the CMR at Risk process, and shall not be entitled to additional time or money in order to conform the CMR Services to that schedule.

**4.18** Within 14 Days of the Effective Date of this Agreement, the CMR shall present to the City a schedule for the CMR's duties, deliverables, and requirements showing the start and completion of the activities to be performed by the CMR. This schedule shall be in conformance with the most current schedule of the Architect/Engineer(s)' Agreement.

**4.19** The CMR shall submit monthly an Application for Payment for the proportional amount of the Pre-Construction Services Fee which shall be determined by dividing the Pre-Construction Services Fee by the number of months from the effective date of this Agreement until the scheduled submittal of the GMP Proposal by the CMR. Delays to the schedule shall result in re-calculation of the monthly application amount by dividing the amount of Pre-Construction Services Fee remaining by the number of months currently remaining until the first submittal of GMP Proposal.

**4.20** In the event the performance of the CMR is delayed by reasons outside the CMR's control, the CMR shall request in writing an extension of time for the Contract requirements of this Agreement. Said request for extension shall include a proposed revised schedule, and documentation as to the cause of the delay. The CMR's sole remedy for delays which impact the time of performance of this Agreement shall be a time extension. No damages for delay shall accrue to the benefit of the CMR as a result of any delays to the performance of this Agreement. Specifically, the CMR agrees that the failure of the Architect/Engineer(s) to maintain the joint schedule shall be non-compensable to the CMR and CMR's sole remedy shall be an extension of time.

**4.21** The City shall retain the right to suspend the Work wholly or in part, for such period(s) as may be deemed necessary. Such suspension will be ordered and verified in writing, listing in detail the reason(s) for suspension. Additional time may be granted to the CMR by the City for imposed time suspension only if there is justifiable information that the suspension negatively impacted the critical path of the Project.

**4.22** Should the CMR be requested or required by the City to provide Services which the CMR believes are outside and/or in addition to the scope of this Agreement, the CMR shall within five Days of being requested to perform such Services notify the City in writing of the CMR's opinion that the Services are outside the scope of this Agreement, the reason the CMR believes they are outside the scope of this Agreement, and the proposed costs and time impact, if any, for the performance of same. The City may direct the CMR to proceed with such Services pending a final determination as to the compensation. In such case, the CMR's right to consideration shall not be waived by proceeding as directed.

## **ARTICLE 5**

### **GMP PROPOSAL AND ACCEPTANCE/REJECTION**

**5.1** CMR Fee, Profit, General Conditions, Contingency: The CMR shall propose the amount to be included in the GMP for its General Conditions costs and the Contingency, as defined herein. Pursuant to said Amendment, the Contingency shall be used as a source of funds for the costs reasonably and necessarily incurred and paid by the CMR.

**5.2** The Contingency shall be in an amount which the CMR believes, in its best judgment, is reasonable to cover construction related costs which were not specifically foreseeable or quantifiable as of the date the GMP was established, including but not limited to: correction of minor defects or omissions in the Work not caused by the CMR's negligence; cost overruns due to the default of any Subcontractor or Supplier; minor changes caused by unforeseen or concealed site conditions; minor changes in the Work not involving adjustment in the GMP or extension of the completion date and not inconsistent with the approved final Plans and Specifications; and written agreed upon City requested changes to the Work.

**5.3** Draws may be charged against the Contingency only with the City's written consent, which shall not be unreasonably withheld or delayed. The Contingency

excludes, and shall not be used for, costs incurred to demobilize and remobilize due to suspensions ordered by the City, all of which are to be treated only by Change Order. Upon making a draw against the Contingency, the CMR shall increase the relevant budgeted line items by the amount of the draw, and decrease the respective Contingency line item accordingly.

**5.4** The CMR shall maintain records satisfactory to the City to document each draw against each Contingency.

**5.5** To the extent that any portion of the Contingency remains unallocated on the date of Final Completion and after the issuance of final payment for the Project, the remaining portion of the accrued Contingency shall be returned to the City in full (not to include the cost-savings detailed in paragraph 5.7 (e) herein).

**5.6** The CMR's General Conditions shall be a line item included in the Project's Schedule of Values and is to be paid on a monthly basis according to the percentage completion of the Project.

**5.7** The sum of Subcontractor bids, CMR's fee, profit and general conditions shall comprise the proposed GMP for the Project and shall form the basis of negotiations between the CMR and the City.

a) The City shall have the option of accepting or rejecting the GMP as presented by the CMR. Should the GMP be accepted, the GMP Amendment reflecting that acceptance will be executed, and the Contract Price increased by the GMP amount. Should the GMP not be accepted, the City may at its option:

i) Reject the GMP and direct the Architect/Engineer(s) and CMR to investigate, redesign, develop for City approval Value Engineering possibilities, and other cost savings and to re-submit a new, lesser, proposed GMP. This may at the City's option include reduction in scope, all to be done at no additional cost to the City; and

ii) Reject the GMP, take possession of the Plans and Specifications, and bid the Work to a General Contractor or otherwise complete with other forces or take such action, if any, that the City may determine is in its best interest. In this event, the CMR shall not perform nor be compensated for any Services on the Project beyond the agreed Pre-Construction Services Fee. In the event any option under this subparagraph is chosen by the City, the CMR is obligated to immediately turn over to the City all Plans, Specifications and other Project related documentation.

b) If and when accepted by the City, the GMP shall be formalized by the execution of the GMP Amendment (Exhibit I).

- a) The City shall determine, after each negotiation session, unless agreement is reached, if further negotiations are warranted. If negotiations are declared unsuccessful, the City shall take possession and ownership of all documents produced, pay the CMR any remaining undisputed fee(s), and proceed under the requirements noted under this paragraph, and the City and CMR shall be mutually released from any further obligations each to the other.
- b) The City shall have no obligation to accept the GMP Proposal of the CMR regardless of that Proposals' relationship to the Budget or the most current estimate, or for any other reason.
- e) Following the completion of the Construction Phase Services, the difference, if any, between the Contract Sum and the GMP for the Construction Phase Services, shall be defined as "Cost Savings." As additional consideration to the CMR and an incentive to complete the Project for less than the GMP, the parties agree to allocate any Cost Savings on the basis of 25% to the CMR and 75% to the City (excluding contingencies, which shall be returned to the City in whole). The City shall pay CMR its share of Cost Savings at the time of final payment for Construction Phase Services. Notwithstanding the foregoing, CMR shall not be entitled to or receive any payments for Cost Savings for Construction Phase Services if CMR fails to meet the Contract Times for that portion of the Work, it being understood and agreed that time is of the essence with respect to Contract Times.

## **ARTICLE 6**

### **CONTRACT DOCUMENTS**

**6.1** The Contract Documents, which comprise the entire agreement between City and CMR concerning the Work, consist of this Agreement and amendments thereto, and the following:

- a) Grant Agreement #B-24-CP-FL-0666
- b) All Change Orders (including written and approved comments to Construction Documents and time extensions), which may be delivered or issued after the Effective Date of this Agreement;
- c) All Addenda and Exhibits;
- d) Proposal Forms and documents constituting the RFQ (including but not limited to, Value Engineering items accepted during negotiation, General Terms and Conditions, Price Proposal Sheet(s), Information Required of Proposer, Bid Bond, all required licenses, insurance certificates, performance Bonds, where applicable, and affidavits);

- e) Supplementary General Conditions, if any:
  - i. Technical Specifications;
  - ii. Referenced Standard Specification;
  - iii. Drawings; and
- f) CMR's GMP and GMP Amendments.

**6.2** The Contract Documents are specifically incorporated into this Agreement by this reference. The Contract Documents may only be amended by written Change Order as provided in the General Terms and Conditions. In the event of any conflict between this Agreement and any of the Contract Documents, the Agreement and amendments hereto shall govern first, followed by the other Contract Documents in the order listed above.

## **ARTICLE 7**

### **LIQUIDATED DAMAGES**

Categories of Liquidated Damages:

**7.1** City and the CMR recognize that, absent written authorization, the Work is to be completed within the time specified herein. They also recognize the delays, expense, and difficulties involved in proving in legal proceedings, the actual loss suffered by the City if the Work is not completed on time. Accordingly, instead of requiring any such proof, the City and the CMR agree that as liquidated damages for delay (but not as a penalty), the CMR shall pay the City \$2,000.00 for each calendar Day that expires after the time specified herein for Substantial Completion until Substantial Completion is achieved, and \$1,500.00 for each calendar Day that expires after the time herein for Final Completion, until full acceptance is achieved. Liquidated damages are cumulative.

**7.2** City and CMR recognize the delays, expense, and difficulties involved in proving in a legal proceeding the actual loss suffered by the City if the Work is not completed as required herein. Accordingly, instead of requiring any such proof, the City and the CMR agree that as liquidated damages for failure to comply with the requirements of the agreed upon schedule (but not as a penalty), the CMR shall pay the City damages as stated in paragraph 7.1 of this Article 7.

**7.3** Notice: In the event of default by CMR in complying with the specified Substantial Completion and Final Completion dates, the City shall provide CMR with 10 Days written notice of City's intent to assess liquidated damages, and such charges will be deducted from the final payment due CMR.

## **ARTICLE 8**

### **TERM**

The term of this Agreement shall commence upon the date of execution hereof and shall remain in effect until acceptance of the Work and issuance of a Certificate of

Completion and/or Certificate of Occupancy by the City, unless terminated earlier as provided in Article 10 herein.

## **ARTICLE 9 ASSIGNMENT**

No assignment by the CMR of any rights or obligations hereunder or interests in the Contract Documents will be binding on the City without the written consent of the City, which may be withheld for any reason, in the City's sole discretion.

## **ARTICLE 10 TERMINATION OF AGREEMENT (2 C.F.R. PART 200, APPENDIX II (A AND B))**

Pursuant to the requirements of 2 Code of Federal Regulations ("C.F.R.") C.F.R. § 200.326 and 2 C.F.R. Part 200, Appendix II the following federal rules are applicable to the Contractor.

**10.1 Termination for Convenience.** The City may terminate this Agreement for convenience by giving CMR 30 calendar day's written notice. In the event of such termination, CMR shall be entitled to receive compensation for any Work completed pursuant to this Agreement and to the satisfaction of the City, up through the date of termination. Under no circumstances shall the City make payment for Work not yet performed.

**10.2 Termination for Cause.** This Agreement may be terminated by either party upon five calendar day's written notice to the other should such other party fail substantially to perform in accordance with this Agreement's material terms through no fault of the party initiating the termination. In the event that CMR abandons this Agreement or causes it to be terminated by the City, CMR shall indemnify the City against loss pertaining to this termination. In the event that CMR is terminated by the City for cause and it is subsequently determined by a court of competent jurisdiction that such termination was without cause, such termination shall thereupon be deemed a termination for convenience under Section 10.1 of this Agreement, and the provisions of Section 10.1 shall apply.

**10.3 Return of City equipment** Upon termination of this Agreement, CMR shall return any and all City equipment to the City.

**10.4. Survival.** The termination of this Agreement under Section 10.1 or 10.2 shall not relieve either party of any liability that accrued prior to such termination and any such accrued liability shall survive the termination of this Agreement.

## **ARTICLE 11 INDEMNIFICATION**

**11.1** In accordance with section 725.06(2), Florida Statutes, CMR shall, at all times hereafter, indemnify, hold harmless and defend the City, its officers, employees,

contractors and/or agents from and against any Claim, demand or cause of action of any kind or nature arising out of the negligent act, error, or omission of CMR, its officers, employees, contractors including, without limitation, Subcontractors, Subconsultants, and/or agents, in the performance of any Work and/or Services under this Agreement.

**11.2** In the event that CMR abandons this Agreement or causes it to be terminated by City, CMR shall indemnify, hold harmless and defend the City, its officers, employees, contractors and/or agents against any loss pertaining to such termination.

**11.3** CMR hereby affirms that it shall be responsible for the acts, errors and omissions of its Subconsultants and shall indemnify, defend and save harmless the City, officers, employees, contractors and agents from any and all Claims by third parties which may arise on account of Services rendered by Subconsultants.

**11.4** The provisions of this Section shall survive the expiration or earlier termination of this Agreement.

**11.5** The City reserves the right to reject any Subcontractor proposed bid to be considered by the CMR. Any Claims, objections or disputes arising out of Subcontractor proposed bids are the responsibility of the CMR. The CMR shall hold harmless, indemnify, and defend the City, its officers, employees, and agents, in any matter arising out of the Subcontractor's bids, except where the sole cause of the matter is a City directed decision.

**11.6** Nothing in this Agreement is intended to waive the City's right to sovereign immunity to the extent provided in section 768.28, Florida Statutes.

## **ARTICLE 12**

### **APPLICABLE LAW; ACCIDENT PREVENTION AND REGULATIONS**

CMR shall comply will all applicable Laws and Regulations at all times. Precautions shall be exercised at all times for the protection of persons and property. The CMR and all Subcontractors shall conform to all OSHA, federal, state, county, and City regulations while performing under the terms and conditions of this Agreement. Any fines levied by the above-mentioned authorities because of inadequacies to comply with these requirements and any required corrective action shall be borne solely by the CMR.

## **ARTICLE 13**

### **CERTIFICATE OF COMPETENCY**

CMR shall, at the time of executing this Agreement, hold a valid certificate of competency or applicable license for providing the Services, if applicable, issued by the federal, state, or county examining board qualifying the CMR to perform the Work. If a Subcontractor(s) is employed, an applicable certificate of competency or license issued to the Subcontractor(s) shall be submitted along with CMR'S certificate or license upon execution of this Agreement; provided, however, that the City may, at its sole option,

upon written approval to CMR, and in its best interest, allow CMR to supply the certificate(s) to the City during the first week of Work or Services.

## **ARTICLE 14**

### **INDEPENDENT CONTRACTOR**

CMR has been procured and is being engaged to provide Services to the City as an independent contractor, and not as an agent or employee of the City. Accordingly, CMR shall not attain, nor be entitled to, any rights or benefits of the City, nor any rights generally afforded classified or unclassified employees of the City. CMR further understands that Florida Workers' Compensation benefits available to employees of the City are not available to CMR, or its employees or agents, and agrees to provide workers' compensation insurance for any employee or agent of CMR rendering Services to the City under this Agreement.

## **ARTICLE 15**

### **AUDIT AND INSPECTION RIGHTS / ACCESS TO RECORDS**

#### **AUDIT AND INSPECTION RIGHTS:**

**15.1** The City may, at reasonable times and for a period of up to three years following the date of Final Completion, audit, or cause to be audited, those books and records of CMR which are related to CMR's performance under this Agreement. CMR agrees to maintain all such books and records at its principal place of business for a period of three years after final payment is made under this Agreement.

**15.2** The City may, at reasonable times during the term hereof, inspect CMR'S facilities and perform such inspections as the City deems reasonably necessary to determine whether the Services required to be provided by CMR under this Agreement conform to the terms hereof and/or the terms of this Agreement. CMR shall make available to the City all reasonable facilities and assistance to facilitate the performance of inspections by the City's representatives. All inspections shall be subject to, and made in accordance with, all applicable law, including but not limited to the provisions of the City Code and the Code of Broward County, Florida, as same may be amended or supplemented from time to time.

**15.3** The City may, as deemed necessary, require from the CMR support and/or documentation for any submission. Upon execution of the Agreement, the CMR agrees that the City shall have unrestricted access during normal working hours to all CMR's records relating to this Project including hard copy as well as electronic records for a period of three years after Final Completion.

#### **ACCESS TO RECORDS:**

**15.4** The CMR agrees to provide the City, the Florida Department of Environmental Protection Administrator, the Comptroller General of the United States,

or any of their authorized representatives access to any books, documents, papers, and records of the CMR which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

**15.5** The CMR agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

**15.6** The CMR agrees to provide the Florida Department of Environmental Protection Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract. In compliance with the Disaster Recovery Act of 2018, the City and the CMR acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the Florida Department of Environmental Protection Administrator or the Comptroller General of the United States.

## **ARTICLE 16** **PUBLIC RECORDS**

**16.1** The CMR shall comply with The Florida Public Records Act as follows:

**16.1.1** Keep and maintain public records in the CMR's possession or control in connection with the CMR's performance under this Agreement, that ordinarily and necessarily would be required by the City in order to perform the service.

**16.1.2** Upon request by the City's records custodian, provide the City with a copy of requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

**16.1.3** Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement, and following completion of this Agreement until the records are transferred to the City.

**16.1.4** Upon completion of this Agreement or in the event of termination of this Agreement by either party, any and all public records relating to this Agreement in the possession of the CMR shall be delivered by the CMR to the City, at no cost to the City, within seven (7) days. All records stored electronically by the CMR shall be delivered to the City in a format that is compatible with the City's information technology systems. Once the public records have been delivered to City upon completion or termination of this Agreement, the CMR shall destroy any and all duplicate public records that are exempt or confidential and exempt from public record disclosure requirements.

**16.1.5** The CMR's failure or refusal to comply with the provisions of this Section shall result in the immediate termination of this Agreement by the City.

**16.1.6 IF CMR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO CMR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 954-602-3011, [daqibbs@miramarfl.gov](mailto:daqibbs@miramarfl.gov) OR BY MAIL: City Of Miramar – City Clerk's Office, 2300 Civic Center Place, Miramar, FL 33025.**

**ARTICLE 17**  
**COMPLIANCE WITH FEDERAL STATE AND LOCAL LAWS**

**17.1** CMR understands that agreements between private entities and local governments are subject to certain Laws and Regulations, including, by example and not limitation, laws pertaining to public records, conflict of interest, and record keeping. CMR agrees to comply with and observe all applicable laws, codes and ordinances as they may be amended from time to time.

**17.2** The CMR agrees that it shall not make any statements, press releases or publicity releases concerning this Agreement or its subject matter or otherwise disclose or permit to be disclosed any of the data or other information obtained or furnished in compliance with this Agreement, or any particulars thereof, during the period of the Agreement, without first notifying the City and securing prior written consent, unless and except otherwise required by law. The CMR also agrees that it shall not publish, copyright or patent any of the data developed under this Agreement, it being understood that such data or information are works made for hire and the property of the City.

**17.3** The knowing employment by CMR or its Subcontractors of any alien not authorized to work by the immigration laws or the Attorney General of the United States is prohibited and shall be a default of this Agreement.

**17.4** CMR acknowledges that Florida Department of Environmental Protection financial assistance will be used to fund the contract only. The CMR will comply will all applicable federal law, regulations, executive orders, Florida Department of Environmental Protection policies, procedures, and directives.

**ARTICLE 18**  
**REAFFIRMATION OF REPRESENTATIONS**

CMR hereby reaffirms all of the representations contained in the Solicitation documents and previously made in all Contract Documents.

## **ARTICLE 19**

### **INSURANCE**

#### **19.1 PROFESSIONAL LIABILITY INSURANCE:**

**19.1.1** The CMR shall furnish the City's Risk Manager, at 2300 Civic Center Place, Miramar, Florida 33025, with certificates of insurance and all required endorsements indicating that insurance coverage has been obtained and meets the requirements below:

- a) Comprehensive General Liability Insurance on a comprehensive basis in an amount not less than \$4,000,000.00 per occurrence, and \$3,000,000.00 annual aggregate. The City **must** be shown as an additional insured with waiver of subrogation in its favor.
- b) Automobile Liability Insurance covering all owned, non-owned, and hired vehicles used in connection with the Work, in an amount not less than \$4,000,000.00 per occurrence, and \$4,000,000.00 annual aggregate. Coverage shall stipulate that it is primary over any insurance or self-insurance program available to the City.
- c) Workers' Compensation Insurance for all employees of the Vendor as required by Florida Statute Chapter 440, and Employer's Liability limits of not less than \$3,000,000 per accident.
- d) The insurance coverage required shall include those classifications, as listed in the standard liability insurance manuals, which most nearly reflect the operations of the CMR.
- e) All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida, with the City of Miramar listed as an additional insured with waiver of subrogation and additional insured endorsements both in favor of the City of Miramar, and with the following qualifications:
  - i. The company must be rated no less than "B" as a management, and no less than "Class V" as to financial strength, by the latest edition of Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the City's Risk Manager; or
  - ii. The company must hold a valid Florida Certificate of Authority as shown in the latest "List of All Insurance Companies Authorized or Approved to do Business in Florida", issued by the State of Florida Department of Insurance and are members of the Florida Guaranty Fund.

**19.1.2** Certificates will indicate no cancellation, modification, or change in insurance shall be made without 30 Days written advance notice to the certificate holder.

**19.1.3** Compliance with the foregoing requirements shall not relieve the CMR of its liability and obligation under this Section or under any other Section of the Contract.

**19.1.4** Issuance of a purchase order is contingent upon receipt of the insurance documents, upon execution of this Agreement, absent other agreement between City and CMR. If the insurance certificates are received within the specific time frame, but not in the manner prescribed in this Section, the CMR shall be verbally notified of such deficiency and shall have an additional five calendar Days to submit a corrected certificate to the City. If the CMR fails to submit the required insurance documents in the manner prescribed in this Agreement within five business Days after the execution of the Contract by an authorized official of the City, the CMR shall be in default of the terms and conditions and the Contract shall be deemed terminated immediately. Under these circumstances, the CMR may be prohibited from submitting future Proposals to the City for a period of 12 months.

**19.1.5** The CMR shall be responsible for assuring that the insurance certificates required in conjunction with this Section (**including endorsements**) remain in force for the duration of the period of performance for any contractual agreement(s) resulting from this Solicitation. If insurance certificates are scheduled to expire during the term hereof, the CMR shall be responsible for submitting new or renewed insurance certificates to the City at a minimum of 30 calendar Days in advance of such expiration. In the event that expired certificates are not replaced with new or renewed certificates which cover the term hereof, the City shall suspend the Contract until such time as the new or renewed certificates are received by the City in the manner prescribed in this Section; provided, however, that this suspension period does not exceed 30 Days, the City may at its sole discretion, terminate the Contract and seek re-procurement charges from the CMR.

**19.1.6** If, in the judgment of the City, prevailing conditions warrant the provision by CMR of additional liability insurance coverage or coverage which is different in kind, the City reserves the right to require the provision by CMR of an amount of coverage different from the amount or kind previously required and shall afford written notice of such change in requirements 30 Days prior to the date on which the requirements shall take effect. Should the CMR fail or refuse to satisfy the requirement of changed coverage within 30 Days following the City's

written notice, the City may terminate the Contract on the date that the required change in policy coverage would otherwise take effect.

**ARTICLE 20**  
**COSTS AND ATTORNEY FEES**

If either City or CMR is required to enforce the terms of this Agreement by court proceedings or otherwise, whether or not formal legal action is required, the prevailing party shall be entitled to recover from the other party all such costs and expenses, including but not limited to court costs and reasonable attorney's fees.

**ARTICLE 21**  
**COUNTERPARTS**

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

**ARTICLE 22**  
**WAIVER**

The waiver by either party of any failure on the part of the other party to perform in accordance with any of the terms or conditions of this Agreement shall not be construed as a waiver of any future or continuing similar or dissimilar failure. No waiver shall be effective unless made in writing.

**ARTICLE 23**  
**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. This Agreement shall be binding upon the parties hereto, their heirs, executors, legal representatives, successors, or assigns.

**ARTICLE 24**  
**NOTICES**

All notices or other communications required under this Agreement shall be in writing and shall be given by hand-delivery or by registered or certified U.S. Mail, return receipt requested, addressed to the other party at the address indicated herein or to such other address as a party may designate by notice given as herein provided. Notice shall be deemed given on the Day on which personally delivered, or, if by mail, on the fifth Day after being posted or the date of actual receipt, whichever is earlier.

**TO H.A. CONTRACTING CORP.:**

ATTN: Henry Angelo, III  
President  
H.A. Contracting Corp.  
9500 N.W. 12<sup>th</sup> Street, Bay 1  
Miami, Florida 33172  
Telephone: (305) 591-9292  
Fax: (305) 591-9630  
Email: [hangelo4@hacontracting.com](mailto:hangelo4@hacontracting.com)

**TO THE CITY OF MIRAMAR:**

ATTN: Dr. Roy L. Virgin,  
City Manager  
CITY OF MIRAMAR  
2300 Civic Center Place  
Miramar, Florida 33025  
Telephone: (954) 602-3115  
Fax: (954) 602-3672  
Email: [rvirgin@miramarfl.gov](mailto:rvirgin@miramarfl.gov)

**WITH A COPY TO:**

City Attorney  
Austin Pamies Norris Weeks Powell, PLLC  
401 NW 7<sup>th</sup> Avenue  
Ft. Lauderdale, FL 33311  
Tel: 954-768-9770  
Fax: 954-768-9790  
Email: [miramarcityattorney@apnwplaw.com](mailto:miramarcityattorney@apnwplaw.com)

**ARTICLE 25**  
**NON-SOLICITATION**

CMR represents and warrants to the City that it has not employed or retained any person or company employed by the City to solicit or secure this Agreement and that it has not offered to pay, paid, or agreed to pay any person any fee, commission, percentage, brokerage fee, or gift of any kind contingent upon or in connection with the award or making of this Agreement. For the breach or violation of this provision, the City shall have the right to terminate the Agreement without liability at its discretion, to deduct from the Contract Price, or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

**ARTICLE 26**  
**THIRD PARTY BENEFICIARY**

It is specifically agreed to between the City and CMR executing this Agreement that it is not intended by any of the provisions of any part of the Agreement to create in the public or any member thereof, a third party beneficiary hereunder, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement.

**ARTICLE 27**  
**CITY'S OWN FORCES**

**27.1** The City reserves the right to perform construction and operations related to the Project with the City's own forces, and to award contracts in connection with the Project which are not part of the CMR's responsibilities under this Agreement.

**27.2** The City will have the right to inspect and conduct periodic inspections of the Work and Materials to determine compliance with the requirements of the Contract. Any Work or Materials rejected by the City for non-compliance shall be replaced and/or corrected at the CMR's expense. Failure to reject Defective Work or Materials, whether from lack of discovery of such defect or for any other reason, will not relieve the CMR from responsibility to complete the Work in full compliance with all Contract requirements and shall in no way prevent later rejection of such Defective Work when discovered.

**ARTICLE 28**  
**LIMITATION OF LIABILITY**

**28.1** The City desires to enter into this Agreement only if in so doing the City can place a limit on City's liability for any cause of action for money damages due to an alleged breach by the City of this Agreement, so that its liability for any such breach never exceeds the fee paid to CMR herein, less any sums paid by the City. CMR hereby expresses its willingness to enter into this Agreement with CMR's recovery from the City for any damage action for breach of contract to be limited to a maximum fee paid to CMR herein, less any sums paid by the City.

**28.2** Accordingly, and notwithstanding any other term or condition of this Agreement, CMR hereby agrees that the City shall not be liable to CMR for damages in an amount in excess of the fee paid to the CMR herein, less any sums paid by the City, for any action or Claim for breach of contract arising out of the performance or non-performance of any obligations imposed upon the City by this Agreement. Nothing contained in this subparagraph or elsewhere in this Agreement is in any way intended to be a waiver of the limitation placed upon the City's liability as set forth in section 768.28, Florida Statutes.

**28.3** In no event shall either party be liable for any indirect, incidental, special, or consequential damages, including, without limitation, loss of profits, revenue, or use incurred by either party or any third party, whether in an action in contract or tort, even if the other party or any other person has been advised of the possibility of such damages.

**ARTICLE 29**  
**WARRANTY AND GUARANTEE**

CMR warrants and guarantees that at the conclusion of the Project, a written certificate to the City will be provided stating that all Work has been performed in

accordance with the Contract Documents. A written warranty will be given to the City against the occurrence of defective Materials and workmanship for a period of one year after acceptance of the Project by the City. At the expiration of the one-year warranty period, CMR will formally assign to the City all extended and special warranties given by Subcontractors, manufacturers or Suppliers for their Work or products on the Project and formally notify Subcontractors and Suppliers of the assignments.

### **ARTICLE 30** **HEADINGS AND INTERPRETATION**

Title and paragraph headings are for convenient reference and are not a part of this Agreement. CMR has been given an opportunity for Counsel to review this Agreement. Accordingly, no party shall be deemed to have any benefit as the drafter of the document for interpretation purposes.

### **ARTICLE 31** **E-VERIFY PROGRAM**

In accordance with Florida Statutes §448.095, the CMR, prior to commencement of services or payment by the City, will provide to the City proof of participation/enrollment in the E-Verify system of the Department of Homeland Security. Evidence of participation/enrollment will be a printout of the Company's "Company Profile" page from the E-Verify system. Failure to be continually enrolled and participating in the E-Verify program will be a breach of contract which will be grounds for immediate termination of the contract by the City. The CMR will not hire any employee who has not been vetted through E-Verify. The CMR may not subcontract any work for the City to any subconsultant that has not provided an affidavit stating that the subconsultant does not employ, contract with or subcontract with an unauthorized alien."

### **ARTICLE 32** **SURVIVAL OF PROVISIONS**

Any terms or conditions of this Agreement that require acts beyond the date of its termination shall survive the termination of this Agreement, shall remain in full force and effect unless and until the terms or conditions are completed, and shall be fully enforceable by either party.

### **ARTICLE 33** **SEVERABILITY**

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

**33.2** City and CMR each binds itself, its partners, successors, assign and legal representatives to the other party hereto, its partners, successors, assign and legal representatives in respect of all covenants, agreements and obligations contained in this Agreement and in all the Contract Documents.

### **ARTICLE 34** **DEFAULT**

**34.1** An event of default shall mean a breach of this Agreement by CMR. Without limiting the generality of the foregoing and in addition to those instances referred to as a breach, an event of default shall include the following:

**34.1.1.** CMR has not performed Services on a timely basis as set forth in the Project Schedule submitted to and accepted by the City;

**34.1.2.** CMR has refused or failed, except in the case for which an extension of time is provided, to supply enough properly skilled staff personnel;

**34.1.3.** CMR has failed to make prompt payment to Subconsultants or Suppliers (if any) for any Services;

**34.1.4.** CMR has become insolvent or has assigned the proceeds received for the benefit of Architect's creditors, or Architect has taken advantage of any insolvency statute or debtor/creditor law or, if Architect's affairs have been put in the hands of a receiver;

**34.1.5.** CMR has failed to obtain the approval of City where required by this Agreement;

**34.1.6.** CMR has failed in the honoring of any warranties; or

**34.1.7.** CMR has refused or failed, except in the case for which an extension of time is provided, to provide the Services as defined in this Agreement.

**34.2** In the event CMR fails to comply with the provisions of this Agreement, City may declare CMR in default, notify CMR in writing, and give CMR 15 calendar Days to cure the default. If CMR fails to cure the default, compensation will only be due for any completed professional Services, minus any damages pursuant to Article 10 herein. In the event payment has been made for such professional Services not completed, CMR shall return these sums to City within ten (10) days after notice that these sums are due. Nothing in this Section shall limit City's right to terminate, at any time, pursuant to Article 10 above, and its right for damages under Article 34.3.

**34.3** In the event of Default, CMR shall be liable for all damages resulting from the default, including but not limited to:

**34.3.1.** Lost funding, and

**34.3.2.** The difference between the cost associated with procuring services and the amount actually expended by City, including procurement and administrative costs.

**34.4** City may take advantage of each and every remedy specifically existing at law or in equity. Each and every remedy shall be in addition to every other remedy specifically given or otherwise existing and may be exercised from time to time as often and in such order as may be deemed expedient by City. The exercise or the beginning of the exercise of one remedy shall not be deemed to be a waiver of the right to exercise any other remedy. City's rights and remedies as set forth in this Agreement are not exclusive and are in addition to any other rights and remedies available to City at Law or in equity.

### **ARTICLE 35** **VENUE AND JURISDICTION**

This Agreement shall be construed and enforced according to the Laws of the State of Florida. The parties submit to the jurisdiction of any Florida state or federal court in any action or proceeding arising out of or relating to this Agreement. Venue for any action arising out of this Agreement shall be in Broward County, Florida.

### **ARTICLE 36** **SCRUTINIZED COMPANIES**

**36.1** CMR certifies that it and its subconsultants are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, F.S., the City may immediately terminate this Agreement at its sole option if the CMR or its subconsultants are found to have submitted a false certification; or if the CMR, or its subconsultants are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement.

**36.2** If this Agreement is for more than one million dollars, the CMR certifies that it and its subconsultants are also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, F.S. Pursuant to Section 287.135, F.S., the City may immediately terminate this Agreement at its sole option if the CMR, its affiliates, or its subconsultants are found to have submitted a false certification; or if the CMR, its affiliates, or its subconsultants are placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Agreement.

**36.3** The CMR agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.

**36.4** As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize the above-stated contracting prohibitions then they shall become inoperative.

### **ARTICLE 37** **DELIVERY OF MATERIALS**

**37.1** Upon receipt of notice of termination under Articles 10 and 34 herein, Contractor shall immediately deliver to City all Materials held or used by Contractor in connection with the Services except those Materials, if any, owned by Contractor or supplied by Contractor at Contractor's own cost. If, at the time of termination further sums are due Contractor, Contractor shall not be entitled to sums until all Materials required to be delivered to the City are delivered in electronic format, including any additional format of delivery of Materials requested by the City.

**37.2** Upon receipt of notice of termination for any reason, Contractor shall promptly cease all Services, except for additional Services that the City may, in its discretion, request Contractor to perform. Contractor shall perform additional Services with the standard of care as stated in Article 4 herein.

### **ARTICLE 38** **OWNERSHIP OF DOCUMENTS**

**38.1** All original construction Drawings and Specifications produced by Consultant under this Agreement shall remain the property, and shall remain in the custody and possession, of Consultant, who shall retain them in confidence. Copies of all Drawings and Specifications (both in electronic form, clearly marked as copies, and in the form of reproducible hard copies) shall be furnished to the City, along with copies (or originals to the extent permitted by Florida Regulations governing the practice of Consultants) of any drafts, Work papers, samples, prototypes, models, sketches, conceptual or schematic Drawings, master plan documents, and other work product produced in connection with this Agreement or the Project which is the subject of this Agreement, regardless of the state of completion of the Work, and regardless of the source (collectively, Consultant's "Work") that Consultant has retained in its possession. City may reuse the concepts, themes, ideas, and expression reflected or embodied in the Drawings and Specifications and may, if it wishes, retain another licensed design professional to incorporate said concepts, themes, ideas, and expression into other plans and Specifications. All Consultant's Work other than one set of original construction Drawings, line Drawings, Specifications, and computer disks prepared by the Consultant shall be the property of the City and may be used by the City as the City sees fit. The original physical Drawings and Specifications retained by City may be used for occupying the Project, completing or modifying the Project, the building, the site for

which they were prepared, but not for the construction of another project on another site. All original construction Drawings, line Drawings, Specifications, and computer disks shall remain in the possession, care, custody and control of Consultant. Consultant's Work shall be deemed "work for hire" commissioned by the City to the fullest extent permitted by the copyright Laws of the United States and by Florida Law. To the fullest extent permitted by federal and Florida Law, Consultant hereby transfers to the City, for good and valuable consideration, all copyright, trademark, and patent rights in and to Consultant's Work, and agrees to sign any and all further documents deemed necessary by the City to protect the City's copyright rights therein at the conclusion of the Project. Consultant agrees not to share, reveal, or advertise any of the Work, or the concepts, themes or ideas reflected therein, with or to any third parties absent City's prior written consent, and further agrees not to reuse same for any purpose without City's prior written consent. Consultant expressly acknowledges that, to the extent the concepts and themes for a given Project were initially conceived by the City, they shall remain the property of the City, and the City may reuse them as it sees fit. Upon the completion or termination of Consultant's involvement on a given Project, any and all documents, information or use rights provided to the Consultant for purposes of or in connection with the Consultant's performance of this Agreement in connection with the Project, or otherwise related to the Project, shall be returned to the City, without Consultant retaining any copies except that Consultant shall retain copies of documents or information furnished by the City which were influential in Consultant's production of the Work so long as the Consultant holds same in confidence and does not disseminate them or share them with any other third parties.

**38.2** When the City requests that the Consultant provide to it certain plans, Specifications, or other documents in electronic form ('Electronic Documents'), the Project Consultant will do so subject to the terms of this provision. The City recognizes that Electronic Form Documents are not intended to be used for construction, are not Contract Documents under the terms of the Construction Contract, may be revised by others without the knowledge or consent of the Consultant, and, when plotted, may result in variances or corrupt other files of the user. City agrees not to use the Electronic Form Documents for any purposes other than the Project for which they were prepared. Consultant will provide to the City only a working copy of the Electronic Form Documents. Said working copy of the Electronic Form Documents shall have removed from the electronic display all indices of the Consultant's ownership, professional name, and/or involvement in the Project. Any use of any kind and/or changes to the Electronic Form Documents will be at the sole risk of the user and without liability, risk, or legal exposure to the Consultant.

**ARTICLE 39**  
**COMPLIANCE WITH THE CONTRACT WORK HOURS AND SAFETY**  
**STANDARDS ACT (2 C.F.R. PART 200, APPENDIX II(E))**

**39.1** Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

**39.2** Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph 39.1 of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph 39.1 of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 39.1 of this section.

**39.3** Withholding for unpaid wages and liquidated damages. The City shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 39.2 of this section.

**39.4** Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph 39.1 through 39.4 of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 39.1 through 39.4 of this section.

**ARTICLE 40**  
**CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT (2**  
**C.F.R. PART 200, APPENDIX II(G)**

**CLEAN AIR ACT:**

**40.1** The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

**FEDERAL WATER POLLUTION CONTROL ACT:**

**40.2.** The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

**40.3.** The contractor agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to Florida Department of Environmental Protection, and the appropriate Environmental Protection Agency Regional Office.

**40.4.** The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by Florida Department of Environmental Protection.

**ARTICLE 41**  
**DEBARMENT AND SUSPENSION (2 C.F.R. PART 200, APPENDIX II(H); AND 2**  
**C.F.R. § 200.213)**

**41.1** This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the contractor is required to verify that none of the contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

**41.2** The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

**41.3** This certification is a material representation of fact relied upon by the City. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

**41.4** The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

**ARTICLE 42**  
**NO OBLIGATION BY THE FEDERAL GOVERNMENT**

The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the City, contractor, or any other party pertaining to any matter resulting from the contract.

**ARTICLE 43**  
**FRAUD AND FALSE OR FRAUDULENT OR RELATED ACTS**

The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

**ARTICLE 44**  
**PROCUREMENT OF RECOVERED MATERIALS (2 C.F.R. PART 200, APPENDIX II(J); AND 2 C.F.R. § 200.322)**

**44.1** In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—

- a. Competitively within a timeframe providing for compliance with the contract performance schedule;
- b. Meeting contract performance requirements; or
- c. At a reasonable price.

**44.2** Information about this requirement, along with the list of EPA- designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

**44.3** The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

**ARTICLE 45**  
**BYRD ANTI-LOBBYING AMENDMENT, 31 U.S.C. § 1352 (AS AMENDED) (2 C.F.R. PART 200, APPENDIX II(I))**

**45.1** Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress,

officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

**ARTICLE 46**  
**AMERICAN IRON AND STEEL REQUIREMENT**

**46.1** Contractor certifies that all procurement is in compliance with Federal requirements which states that all iron and steel products used in the Project must be produced in the United States unless: (a) a waiver is provided to the Local Borrower by the EPA, or; (b) compliance would be inconsistent with United States obligations under international agreements.

**ARTICLE 47**  
**APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING**

Certification for Contracts, Grants, Loans, and Cooperative Agreements. The undersigned certifies, to the best of his or her knowledge and belief, that:

**47.1** No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

**47.2** If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

**47.3** The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

**47.4** This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by

section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

**47.5** The Contractor, acknowledges and affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

## **ARTICLE 48**

### **BUILD AMERICA/BUY AMERICA**

SEC. 70914 of Public Law No. 117-58, §§ 70901-52, also known as the Infrastructure Investment and Jobs Act (IIJA), Public Law 117-58, which includes the Build America, Buy America Act (BABA).

**APPLICATION OF BUY AMERICA PREFERENCE.** (a) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the head of each Federal agency shall ensure that none of the funds made available for a Federal financial assistance program for infrastructure, including each deficient program, may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States. (b) **WAIVER.**—The head of a Federal agency that applies a domestic content procurement preference under this section may waive the application of that preference in any case in which the head of the Federal agency finds that—(1) applying the domestic content procurement preference would be inconsistent with the public interest; (2) types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or (3) the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent. (c) **WRITTEN JUSTIFICATION.**—Before issuing a waiver under subsection (b), the head of the Federal agency shall— (1) make publicly available in an easily accessible location on a website designated by the Office of Management and Budget and on the website of the Federal agency a detailed written explanation for the proposed determination to issue the waiver; and (2) provide a period of not less than 15 days for public comment on the proposed waiver. (d) **REVIEW OF WAIVERS OF GENERAL APPLICABILITY.**— (1) **IN GENERAL.**—An existing general applicability waiver or a general applicability waiver issued under subsection (b) shall be reviewed every 5 years after the date on which the waiver is issued. (2) **REVIEW.**—In conducting a review of a general applicability waiver, the head of a Federal agency shall—

(A) publish in the Federal Register a notice that— (i) describes the justification for a general applicability waiver; and (ii) requests public comments for a period of not less than 30 days on the continued need for a general applicability waiver; and (B) publish

in the Federal Register a determination on whether to continue or discontinue the general applicability waiver, taking into account the comments received in response to the notice published under subparagraph (A). (3) LIMITATION ON THE REVIEW OF EXISTING WAIVERS OF GENERAL APPLICABILITY.—For a period of 5 years beginning on the date of enactment of this Act, paragraphs (1) and (2) shall not apply to any product- specific general applicability waiver that was issued more than 180 days before the date of enactment of this Act. (e) CONSISTENCY WITH INTERNATIONAL AGREEMENTS.— This section shall be applied in a manner consistent with United States obligations under international agreements.

**[REMAINDER INTENTIONALLY LEFT BLANK]**

**ARTICLE 49**  
**ENTIRE AGREEMENT**

The Contract Documents constitute the sole and entire agreement of the parties relating to the subject matter hereof and correctly set forth the rights, duties, and obligations of each to the other as of its date. Any prior agreements, promises, negotiations, or representations not expressly set forth therein, are of no force or effect. No modification or amendment thereto shall be valid unless in writing and executed by properly authorized representatives of the parties herein.

**IN WITNESS WHEREOF**, the parties have set their hands and seals the day and year first above written.

**CITY OF MIRAMAR:**

By: \_\_\_\_\_  
City Manager  
Dr. Roy L. Virgin

This \_\_\_\_ day of \_\_\_\_\_, 2026.

**H.A. CONTRACTING CORP.:**

By: \_\_\_\_\_  
President  
Henry Angelo, III

Date: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Denise A. Gibbs, City Clerk

Approved as to form and legal sufficiency  
for the use of and reliance by the City of  
Miramar, Florida only:

\_\_\_\_\_  
City Attorney  
Austin Pamies Norris Weeks Powell, PLLC.

**ATTACHMENT I - TO THE AGREEMENT**  
(to be submitted at time of negotiations)

**Negotiated Pre-Construction Services Fee**

<b>PRE-CONSTRUCTION SERVICES</b>	
1. Construction Documents Review, Constructability and Value Engineering	
2. Review of On-site and Off-site Conditions	
3. Cost Estimating and Cost Controls	
4. Scheduling	
5. Bidding (GMP Submittal and Negotiations)	
6. Contingency	
<b>7. TOTAL PRE-CONSTRUCTION SERVICES FEE</b>	

**EXHIBIT I**  
**DRAFT GMP AMENDMENT No.\_\_\_\_**

**AGREEMENT FOR PRE-CONSTRUCTION AND CONSTRUCTION MANAGER AT RISK SERVICES BETWEEN THE CITY OF MIRAMAR, FLORIDA, AND \_\_\_\_\_ PURSUANT TO RESOLUTION NO. \_\_\_\_ (ENTITLED “PRE-CONSTRUCTION AND CONSTRUCTION MANAGER AT RISK SERVICES FOR THE NEW COMMUNITY RECREATION & MULTI-PURPOSE FACILITY”)**

**THIS GMP AMENDMENT NO.\_\_\_\_**, is made effective on the last date of execution herein (“**GMP Amendment No\_\_\_\_**”), and amends that certain Agreement between the **City Of Miramar, Florida** (“City”) and \_\_\_\_\_, (“CMR”) for the following described Project:

**Pre-Construction and Construction Manager at Risk Services for the New Community Recreation & Multi-Purpose Facility (the “Work” or “Project”)**

**WHEREAS**, the City and the CMR have agreed to amend the Agreement in the manner set forth herein.

**NOW, THEREFORE**, in consideration of the mutual promises and covenants contained herein, in the Agreement and the other Contract Documents and for such other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and the CMR do hereby agree as follows:

1. This **GMP Amendment No. \_\_\_\_** is executed in connection with, and is deemed to be part of the Agreement and the Contract Documents. Wherever the terms of this **GMP Amendment No. \_\_\_\_** and the terms of the Contract Documents are in conflict, the terms of this **GMP Amendment No. \_\_\_\_** shall govern and control. The terms used herein, unless otherwise defined in this **GMP Amendment No. \_\_\_\_** shall have the meanings ascribed to them in the Contract Documents.

2. The following are hereby incorporated into the Contract Documents and made a part hereof:

- a. The Construction Documents listed on **Attachment I**, attached hereto, are made a part of the Contract Documents by this reference (the “Construction Documents”); and
- b. The Specifications listed on **Attachment II, GMP Amendment No.\_\_\_\_**, attached hereto, are made a part of the Contract Documents by this reference (the “Specifications”); and
- c. Those documents listed on **Attachment III**, Additional Contract Documents, referred to as executed Pre-Construction Services agreement, attached hereto, are made a part of the Contract Documents by this reference; and
- d. Those documents listed on **Attachment IV, GMP Amendment No.\_\_\_\_**, GMP Book inclusive of CMR’s Proposal, Qualifications and Assumptions attached hereto, are made a part of the Contract Documents by this reference; and
- e. Those documents listed on **Attachment V** the CMR’s Salary and Wage Schedule attached hereto, are made part of the Contract Documents by this reference; and
- f. The Scope of Work for the Project, contemplated in this **GMP Amendment No.\_\_\_\_**, and as described in **Attachment I, GMP Amendment No.\_\_\_\_**, is hereby incorporated into the Work; and
- g. The Project Schedule shall be provided for this Project and is set forth on **Attachment VI-GMP Amendment No.\_\_\_\_**, made a part hereof by this reference; and
- h. The CMR’s Onsite Management and Supervisory Personnel for this Project shall be set forth herein, and incorporated as **Attachment VII** to this Agreement.
- i. The date of Commencement for the construction of the Project in this **GMP Amendment No.\_\_\_\_** shall commence upon the issuance of Notice To Proceed (NTP) # 2, by the parties hereto (the “Date of Commencement”).
- j. The CMR shall achieve Substantial Completion of the Work for this Project contemplated in this **GMP Amendment No.\_\_\_\_** no later than \_\_\_\_\_ calendar Days from the issuance of NTP # 2, the Date of

Commencement (the “Contract Time”), and Final Completion, not later than 30 calendar Days from the date of Substantial Completion. Failure to meet either the Substantial Completion or Final Completion dates shall constitute a material breach of this Agreement and liquidated damages will be assessed therefor.

- k. Upon failure of the CMR to substantially complete the Work contemplated in this **GMP Amendment No.\_\_\_\_** within the specified period of time, plus any approved time extensions, CMR shall pay to the City the sum of \$\_\_\_\_\_ for each calendar Day after the time specified in subsection 2(j) of this Amendment.
- l. The GMP for the Scope of Work contemplated in this **GMP Amendment No.\_\_\_\_** for the Project, is hereby guaranteed by the CMR not to exceed the sum of \$\_\_\_\_\_ (**GMP Amendment No. \_\_\_\_**), based upon the entire Scope of Work as described in the Contract Documents, as amended herein, and including but not limited to the Construction Documents and the Specifications, subject only to additions and deductions by Contract Amendment(s) or Construction Change Directive as provided in the Contract Documents. The **GMP** for **GMP Amendment No.\_\_\_\_** is more particularly itemized in the Schedule of Values prepared in accordance with the terms of the Agreement, which Schedule of Values is attached hereto as **Attachment VIII-GMP Amendment No.\_\_\_\_**, and made a part of the Contract Documents by this reference. Included in the Schedule of Values and specifically identified herein, the Contingency as defined in Section 1, General Terms and Conditions of the RFQ is in the amount of \$\_\_\_\_\_.
- m. Should the CMR realize any cost savings from the negotiated Schedule of Values incorporated as **Attachment VIII**, the City shall receive 75% of said savings with no line item integrity. The City reserves the right to audit all Contract related documents at any time during the Project and at the end of the Project.
- n. The CMR shall provide all Commercial General Liability Insurance, Automobile Liability Insurance, Worker’s Compensation Insurance,

and Builder's Risk Insurance as required by the Contract Documents.

- o. The CMR shall provide the Public Construction Payment Bond and the Public Construction Performance and Guarantee Bond as required by the Contract Documents.
- p. By executing this **GMP Amendment No.\_\_\_\_**, the CMR acknowledges that it has ascertained and verified all existing underground utilities and has coordinated all correct locations for points of connection for all utilities, if any, required for this Project and has identified all clarifications and qualifications for this Project, if any. Utility locations shall be identified by the CMR and all existing utility connections will be capped as needed, as noted in the Qualification and Assumptions Statement.
- q. Except as expressly provided herein above, all of the terms, conditions, covenants, agreements and understandings contained in the Contract Documents (and as may have been amended pursuant to **GMP Amendment No.\_\_\_\_** and this **GMP Amendment No.\_\_\_\_**), shall remain unchanged and in full force and effect, and the same hereby expressly ratified and confirmed by the City and CMR.

**IN WITNESS WHEREOF**, the parties have set their hands and seals the day and year first above written.

**CITY OF MIRAMAR:**

By: \_\_\_\_\_  
City Manager  
Dr. Roy L. Virgin

**CMR:**

By: \_\_\_\_\_  
\_\_\_\_\_

This \_\_\_\_ day of \_\_\_\_\_, 2026.

Date: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
Denise A. Gibbs, City Clerk

Approved as to form and legal sufficiency  
for the use of and reliance by the City of  
Miramar, Florida only:

\_\_\_\_\_  
City Attorney  
Austin Pamies Norris Weeks Powell, PLLC

**EXHIBIT I**  
**GMP AMENDMENT NO. \_\_\_\_\_**  
**(For illustrative purposes only)**

ATTACHMENT I CONTRACT DOCUMENTS:  
THE CONSTRUCTION DOCUMENTS DATED \_\_\_\_\_

ATTACHMENT II CONTRACT DOCUMENTS:  
THE SPECIFICATIONS DATED \_\_\_\_\_

ATTACHMENT III CONTRACT DOCUMENTS:  
GENERAL AND SUPPLEMENTARY CONDITIONS  
EXECUTED PRE-CONSTRUCTION SERVICES AGREEMENT  
DATED \_\_\_\_\_

ATTACHMENT IV CONTRACT DOCUMENTS:  
GMP BOOK: CONSTRUCTION MANAGER'S PROPOSAL,  
QUALIFICATIONS AND ASSUMPTIONS DATED \_\_\_\_\_

ATTACHMENT V CONTRACT DOCUMENTS:  
CONSTRUCTION MANAGER'S SALARY AND WAGE SCHEDULE

ATTACHMENT VI CONTRACT DOCUMENTS:  
PROJECT SCHEDULE DATED \_\_\_\_\_

ATTACHMENT VII CONTRACT DOCUMENTS:  
ONSITE SITE MANAGEMENT AND SUPERVISORY PERSONNEL

ATTACHMENT VIII CONTRACT DOCUMENTS:  
SCHEDULE OF VALUES DATED \_\_\_\_\_

**EXHIBIT II**  
**PROJECT SCHEDULE**  
(For illustrative purposes only)

<b><u>Task/ Milestone</u></b>	<b><u>Date</u></b>	<b><u>Duration</u></b>
<b>Design kick off</b>		
<b>Schematic Design</b>		
<b>Construction Documents</b>		
<b>Permitting</b>		
<b>Bid Process by CM</b>		
<b>GMP</b>		
<b>Bid Award/Contract Amendment</b>		
<b>Notice to Proceed</b>		
<b>Substantial Completion</b>		
<b>Final Completion</b>		
<b>TOTAL</b>		

**EXHIBIT III**  
**ARCHITECT/ENGINEER AGREEMENT**  
**(To be inserted)**

**EXHIBIT IV**  
**PROPOSAL DOCUMENTS PURSUANT TO CMR-RFQ NO. 25-08-35(RE-BID)**  
**(To be inserted)**

CGC 010703  
AA: 26001486  
CUC: 056875  
EC 13004193



Ms. Brenda Martin  
Procurement Department  
City of Miramar  
2200 Civic Place  
Miramar, FL 33025

Re: Pre-Construction Services Proposal  
New Community Center & Multi-Purpose Facility

Dear Ms. Martin,

H.A. Contracting is delighted to be selected as your Construction Manager at Risk (CMAR) for the New Community Center & Multi-Purpose Facility.

Below is our Pre-Construction Services Fee proposal for the project based upon the understanding that the design has progressed to the 90% mark on the project. We look forward to receiving the design documents and commencing with pre-construction upon execution of the Pre-Construction Services Agreement.

### **City of Miramar – Community Recreation & Multi-Purpose Facility**

The City of Miramar's Recreation & Multi-Purpose Facility is a long-term public investment intended to serve residents through recreation, wellness, and community programming. As Construction Manager at Risk (CMAR), our pre-construction services are structured to protect public funds, enhance transparency, and ensure the project is delivered within budget, on schedule, and aligned with the City's operational objectives.

Pre-construction is the most critical phase for risk reduction. The decisions made during this stage directly influence cost certainty, document quality, schedule reliability, and long-term facility performance.

### **Construction Document Review, Constructability & Value Engineering**

Our approach begins with structured design reviews at each milestone, which we understand will be limited to 90% Design (current status) and 100% Construction Documents. Each review generates written feedback identifying coordination gaps, conflicts, code concerns, and scope omissions.

For a municipal recreation facility, special attention is given to:

- Large-span structural systems and MEP coordination
- Assembly occupancy life-safety requirements
- ADA accessibility compliance
- Energy efficiency and long-term operational costs
- Hurricane resilience and durable exterior systems

- High-traffic interior finishes and athletic flooring systems

Value engineering is approached through a life-cycle lens. We evaluate materials and systems not simply for lowest first cost, but for durability, maintenance efficiency, warranty protection, and long-term operating savings. The goal is to protect the City's investment while maintaining design intent and functionality.

## **2. Review of On-Site and Off-Site Conditions**

Understanding existing conditions is essential to avoid costly surprises.

We perform detailed reviews of:

- Site access, staging, and logistics planning
- Public safety and separation during construction
- Emergency vehicle access
- Utility capacity and tie-in requirements
- Stormwater and drainage impacts
- Traffic control and neighborhood considerations

Early coordination with utility providers and permitting authorities reduces approval delays and protects the project schedule. Site logistics plans are developed to minimize disruption to surrounding residents and adjacent City facilities.

## **3. Cost Estimating and Cost Controls**

As a publicly funded project, budget transparency and accountability are paramount.

We provide progressive, open-book estimates at each design phase:

- 90% Design (if requested)
- 100% Construction Document Estimate

Each estimate includes detailed trade breakdowns and side-by-side comparisons identifying cost drivers and scope changes. Continuous reconciliation between evolving design and the City's approved budget ensures financial alignment prior to GMP development.

We monitor market conditions for steel, concrete, mechanical equipment, and specialty recreation systems. Where necessary, we recommend early procurement strategies for long-lead items such as air handling units, switchgear, structural steel, and athletic equipment.

Real-time cost feedback allows the design team to adjust proactively, avoiding late-stage redesign or scope reductions.

## **4. Scheduling**

A comprehensive master schedule is developed in collaboration with the City and design team.

The schedule includes:

- Design milestones
- Permit review durations
- Early release packages
- Long-lead procurement
- Commissioning activities
- Final inspection and Certificate of Occupancy

Critical path activities—such as structural framing, mechanical system installation, specialty flooring, and technology integration—are closely analyzed to protect the project completion date.

Planning also incorporates operational readiness, including equipment start-up, staff training, systems commissioning, and punch list completion to ensure the facility opens fully functional.

## **5. Bidding, GMP Development & Negotiations**

Our procurement strategy is structured to maximize competition while maintaining transparency.

The project is divided into clearly defined work packages to:

- Encourage competitive bidding
- Prevent scope gaps or overlaps
- Facilitate accurate bid comparisons
- Promote local and minority contractor participation

We actively develop bid lists that reflect the City's community participation goals. Bids are leveled against standardized scope sheets, clarified for exclusions, and presented with transparent recommendations.

The Guaranteed Maximum Price (GMP) is developed through reconciliation of final estimates and subcontractor pricing. The GMP will clearly define:

- Scope inclusions
- Allowances
- Contingencies
- Unit pricing (where appropriate)
- Assumptions and exclusions

This structured approach ensures confidence and fiscal clarity before entering construction.

## **6. Contingency Management**

Contingency is a structured risk management tool—not excess budget.

We establish separate contingencies for:

- Design development refinement
- Construction-phase unforeseen conditions

All contingency use is documented, tracked, and reported in monthly financial summaries. No funds are allocated without proper review and authorization.

Ongoing risk assessments evaluate design coordination, permitting timelines, procurement exposure, and market volatility to ensure financial control throughout the project lifecycle.

Our Fee Proposal is attached.

Regards,



Henry Angelo IV  
Vice President of Construction  
H.A. Contracting Corp.

**ATTACHMENT I - TO THE AGREEMENT**  
(to be submitted at time of negotiations)

**Negotiated Pre-Construction Services Fee**

<b>PRE-CONSTRUCTION SERVICES</b>	
1. Construction Documents Review, Constructability and Value Engineering	23,168
2. Review of On-site and Off-site Conditions	6,912
3. Cost Estimating and Cost Controls	5,200
4. Scheduling	10,168
5. Bidding (GMP Submittal and Negotiations)	20,320
6. Contingency	4,800
<b>7. TOTAL PRE-CONSTRUCTION SERVICES FEE</b>	<b>70,568</b>

**Miramar Recreation Facility**

**Pre- Construction Fee Estimate**

20,320	Quantity	UOM	Unit Cost	Total
Project Executive- Construction Document Review, Constructability and Value Engineering	32	HR	275.00	8,800
Senior Superintendent- Construction Document Review, Constructability and Value Engineering	24	HR	132.00	3,168
Senior Project Manager- Construction Document Review, Constructability and Value Engineering	24	HR	120.00	2,880
Project Manager -Construction Document Review, Constructability and Value Engineering	80	HR	104.00	8,320
<b>Construction Document Review, Constructability and Value Engineering</b>				<b>23,168</b>
Senior Project Manager- Review On Site and Off Site Conditions	40	HR	120.00	4,800
Senior Superintendent- Review On Site and Off Site Conditions	16	HR	132.00	2,112
<b>Review On Site and Off Site Conditions</b>				<b>6,912</b>
Senior Estimator- Cost Estimating and Cost Controls	40	HR	130.00	5,200
<b>Cost Estimating and Cost Controls</b>				<b>5,200</b>
Planner / Scheduler- Scheduling	40	HR	175.00	7,000
Senior Superintendent- Scheduling	24	HR	132.00	3,168
<b>Scheduling</b>				<b>10,168</b>
Project Executive- Bidding (GMP Submittal and Negotiations)	16	HR	275.00	4,400
Senior Estimator- Bidding (GMP Submittal and Negotiations)	32	HR	130.00	4,160
Estimator- Bidding (GMP Submittal and Negotiations)	120	HR	98.00	11,760
<b>Bidding (GMP Submittal and Negotiations)</b>				<b>20,320</b>
Senior Project Manager- Contingency	40	HR	120.00	4,800
<b>Contingency</b>				<b>4,800</b>
<b>Total Cost of Work</b>				<b>70,568</b>