

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

Meeting Date: September 16, 2020

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

Prepared By: E. Denise Cone, CGC – Project Manager

Temp. Reso. Number: TR#7259

Item Description: Temp. Reso. #7259, APPROVING THE FINAL RANKING AND AWARD OF REQUEST FOR QUALIFICATIONS NO. 20-02-09, ENTITLED "DESIGN AND CONSTRUCTION ADMINISTRATIVE SERVICES FOR THE SCHOOL BOARD OF BROWARD COUNTY'S PERRY MIDDLE SCHOOL PROPERTY" TO THE MOST QUALIFIED RESPONSIVE AND RESPONSIBLE PROPOSER, JORGE A. GUTIERREZ ARCHITECT, LLC; AUTHORIZING THE CITY MANAGER TO EXECUTE THE PROPOSED PROFESSIONAL SERVICES AGREEMENT WITH JORGE A. GUTIERREZ ARCHITECT, LLC FOR THE PROVISION OF THE PROFESSIONAL DESIGN AND CONSULTING SERVICES IN AN AMOUNT OF \$162,340, AND ALLOTING A \$20,000 CONTINGENCY ALLOWANCE FOR A TOTAL NOT TO EXCEED AMOUNT OF \$182,340. (Support Services, Construction Administrator, Daryll Johnson and Procurement Director, Alicia Ayum)

Consent ☒ Resolution ☐ Ordinance ☐ Quasi-Judicial ☐ Public Hearing ☐

Instructions for the Office of the City Clerk:

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 \$182,340 is available in the 2020 CIP Loan Fund-Taxable, GL Account No. 392-55-800-559-000-606502-53025 entitled CIP-Plan/Design/Engineering.

Content:


- **Agenda Item Memo from the City Manager to City Commission**
- **Resolution TR7259**
 - **Exhibit A: Professional Service Agreement**

- **Attachment(s)**
 - **Attachment 1: RFQ 20-02-09 -Scope of Services Proposal**
 - **Attachment 2: Recreation License Agreement**
 - **Attachment 3: Final Evaluation**



**CITY OF MIRAMAR
INTEROFFICE MEMORANDUM**

TO: Mayor, Vice Mayor, & City Commissioners

for **FROM:** Vernon E. Hargray, City Manager 

BY: Daryll Johnson, Construction Administrator, Support Services Dept.

DATE: September 10, 2020

RE: Temp. Reso. No.7259, approving the award of Request for Qualifications No. 20-02-09, to Jorge A. Gutierrez Architect, LLC

RECOMMENDATION: The City Manager recommends approval of Temp. Reso. No. 7259, approving the award of Request for Qualifications No. 20-02-09, entitled "Design and Construction Administrative Services for the School Board of Broward County's Perry Middle School Property" (the RFQ), to the successful proposer that satisfies the qualifications, and whose proposal is in the best interest of the City; and authorizing the City Manager to execute the proposed professional agreement with Jorge A. Gutierrez Architect, LLC., for the provision of professional design and construction administrative services in an amount of \$162,340, and allotting a \$20,000 CONTINGENCY ALLOWANCE for a total not-to-exceed of \$182,340.

ISSUE: City Commission approval is required for expenditures exceeding \$75,000, in accordance with City Code Section 2-412 (a)(1).

The City desires to procure the professional design services of a licensed consultant to provide professional services for the improvement and renovation of recreation amenities existing at Perry Middle School site.

BACKGROUND: The City desires to procure the professional design services of a licensed consultant to provide professional services for the improvement and renovation of recreation amenities existing at Perry Middle School site.

On February 20, 2020 the City entered into a (RLA) Recreation License Agreement with the School Board of Broward County, to improve and renovate the recreation amenities of Perry Middle School Property.

The Perry Middle School site (the "Project") scope of work will include, but is not limited to: the miscellaneous demolition of the existing recreation amenities; constructing new tennis courts; constructing new running track surrounding an open play / soccer field area; stabilizing and securing pre-engineered restroom buildings; constructing a roadway expansion; miscellaneous furnishings and site lightings.

PROCUREMENT: On February 27, 2020, the City's Procurement Department advertised Request for Qualifications No. 20-02-09, entitled Design and Construction Administrative Services for the School Board of Broward County's Perry Middle School Property.

On April 9, 2020, the City received proposal from three (3) consulting firms. The three (3) consulting firms are as follows:

- Jorge A. Gutierrez Architect, LLC
- Nyarko Architectural Group, Inc.
- 2+Architects

On May 5, 2020, City Staff evaluated, scored and ranked all submittals based on the criteria contained in the RFQ, and determined Jorge A. Gutierrez Architect, LLC to be the highest ranking and most qualified proposer. The City negotiated fees for design and construction administrative services for the Project in the amount of \$162,340, and allotting \$20,000 of Supplemental Service Allowance, to be used solely in the discretion of the City, for a total not to exceed amount of \$182,340.



Temp. Reso. No.7259
9/9/20

**CITY OF MIRAMAR
MIRAMAR, FLORIDA**

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF MIRAMAR, FLORIDA, APPROVING THE FINAL RANKING AND AWARD OF REQUEST FOR QUALIFICATIONS NO. 20-02-09, ENTITLED “DESIGN AND CONSTRUCTION ADMINISTRATIVE SERVICES FOR THE SCHOOL BOARD OF BROWARD COUNTY’S PERRY MIDDLE SCHOOL PROPERTY” TO THE MOST QUALIFIED RESPONSIVE AND RESPONSIBLE PROPOSER, JORGE A. GUTIERREZ ARCHITECT, LLC; AUTHORIZING THE CITY MANAGER TO EXECUTE THE PROPOSED PROFESSIONAL SERVICES AGREEMENT WITH JORGE A. GUTIERREZ ARCHITECT, LLC FOR THE PROVISION OF THE PROFESSIONAL DESIGN AND CONSULTING SERVICES IN AN AMOUNT OF \$162,340 AND ALLOTING A \$20,000 CONTINGENCY ALLOWANCE FOR A TOTAL NOT TO EXCEED AMOUNT OF \$182,340; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City desires to procure the services of a Professional Design Consultant to improve and renovate the recreational amenities of Perry Middle School property; and

WHEREAS, on February 20, 2020; the City entered into a Recreation License Agreement with the School Board of Broward County, which includes the identified improvements listed in the scope of work for Perry Middle School (the “Project”);

WHEREAS, on February 27, 2020, the City’s Procurement Department issued Request for Qualifications No. 20-02-09, entitled “Design and Construction Administrative

Reso. No. _____

Services for the School Board of Broward County's Perry Middle School Property" (the RFQ) to solicit consulting and design services for the Project; and

WHEREAS, three proposals were received on April 9, 2020, the date of the scheduled submittal deadline; and

WHEREAS, on May 5, 2020, a selection committee comprised of City Staff evaluated, scored and ranked all submittals based on the criteria contained in the RFQ, and determined Jorge A. Gutierrez Architect, LLC (the "Consultant") to be the highest evaluation scoring, most qualified responsive and responsible proposer whose proposal is most advantageous to the City; and

WHEREAS, the City and the Consultant have negotiated the fees for design and construction administrative services for the Project in an amount of \$162,340; and

WHEREAS, the City Manager recommends that the City Commission approve the final ranking and award the RFQ to Jorge A. Gutierrez Architect, LLC; and authorization for the City Manager to execute the proposed Professional Services Agreement, in an amount of \$162,340 and allotting a \$20,000 contingency allowance for a total not to exceed amount of \$182,340, in the form attached hereto as Exhibit "A"; and

WHEREAS, the City Commission deems it to be in the best interest of the citizens and residents of the City of Miramar to approve the final ranking and award of the RFQ to Jorge A. Gutierrez Architect, LLC; and authorization for the City Manager to execute

the proposed Professional Services Agreement, in an amount of \$162,340 and allotting a \$20,000 contingency allowance for a total not to exceed amount of \$182,340, in the form attached hereto as Exhibit "A".

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 RFQ No. 20-02-09 to Jorge A. Gutierrez Architect, LLC.

Section 3: That the City Manager is authorized to execute the proposed Professional Services Agreement with Jorge A. Gutierrez Architect, LLC, in an amount of \$162,340 and allotting a \$20,000 contingency allowance for a total not to exceed amount of \$182,340 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 in order to carry out the aims of this Resolution.

Temp. Reso. No. 7259
9/9/20

PASSED AND ADOPTED this _____ day of _____, _____.

Mayor, Wayne M. Messam

Vice Mayor, Maxwell B. Chambers

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

Requested by Administration

Commissioner Winston F. Barnes
Vice Mayor Maxwell B. Chambers
Commissioner Yvette Colbourne
Commissioner Alexandra P. Davis
Mayor Wayne M. Messam

Voted

Reso. No. _____

J O R G E A G U T I E R R E Z • A R C H I T E C T • L L C

July 24, 2020

Ms. Brenda Martin, JD
Contracts Administration Manager, Procurement Department
City of Miramar 2200 Civic Center Place Building W
Miramar, FL 33025

RE: Fee Proposal to Furnish Professional Services to the City of Miramar
 **Design and Construction Administrative Services for the School Board of Broward County's
 Perry Middle School Property**

Dear Ms. Martin:

We are pleased to submit for your review this Fee Proposal for the above referenced project.

A. PROJECT SCOPE:

Design for the improvements described in the referenced project RFQ 20-02-09, additionally to include design for the following:

demolition of 3 existing modular classroom buildings
relocation of 3 existing modular classroom buildings to west side of school, includes utilities
up to 10 parking spaces near the relocated modular classroom buildings
pre-engineered restroom building, includes utilities
4-6 tennis courts including fencing and lighting
exercise stations relocated from adjacent city property
fencing and gates to separate school from improved park
crosswalks, sidewalks, and stop signs from elementary school site to park site
concrete pads for bleachers
site lighting
permits will be issued by the City of Miramar and The School Board of Broward County

B. BASIC SERVICES:

Basic services to include architectural, structural engineering, mechanical, electrical, plumbing, fire alarm engineering services. Per State of Florida Department of Management Services, civil engineering and landscape architecture services are considered additional to basic services (please see additional services fees following basic services compensation).

1. 30% Construction Documents / Schematic Design
2. 50% Construction Documents
3. 100% Construction Documents
4. Bidding and Award of Contract
5. Administration of the Contract for Construction

C. BASIC COMPENSATION:

1. The basic compensation:

For Professional Services outlined above is \$74,750.00

The Schedule of Payment, per basic Services / Submittals is as follows:

a. Construction Documents 30% Submittal	=	\$	10,900.00
b. Construction Documents 50% Submittal	=	\$	20,500.00
c. Construction Documents 100% Submittal	=	\$	20,500.00
d. Bidding, Permitting and Award of Contract	=	\$	4,000.00
e. Administration of the Construction Contract	=	\$	18,850.00
f. TOTAL BASIC SERVICES	=	\$	74,750.00

D. ADDITIONAL PROFESSIONAL SERVICES:

a. Civil Engineering	=	\$	52,610.00
b. Landscape Architecture and Irrigation	=	\$	8,000.00
c. Supplemental Services Allowance	=	\$	20,000.00
d. SUBTOTAL ADDITIONAL SERVICES	=	\$	80,610.00

E. REIMBURSABLE EXPENSES: (Allowances)

a. Topographical and Tree survey	=	\$	10,950.00
b. Geotechnical Investigation	=	\$	5,530.00
c. Underground utilities surveying	=	\$	3,500.00
d. Printing	=	\$	7,000.00
e. SUBTOTAL REIMBURSABLE EXPENSES	=	\$	26,980.00

Respectfully submitted,



Jorge A. Gutierrez, A.I.A.



RFQ 20-02-09
REQUEST FOR QUALIFICATIONS
Design and Construction Administrative Services For the
School Board of Broward County's Perry Middle
School Property

Evaluation and Scoring

MAY 5, 2020 @ 11:00 A.M.

	RATERS			TOTAL	RANKNG
Firms	1	2	3		
2+ ARCHITECTS	52	49	43	144	3
JORGE A GUTIERREZ ARCHITECT LLC.	86	88	90	264	1
NYARKO ARCHITECTURAL GROUP, INC.	70	66	75	211	2

REQUEST FOR QUALIFICATIONS

DESIGN AND CONSTRUCTION ADMINISTRATIVE SERVICES FOR THE SCHOOL BOARD OF BROWARD COUNTY'S PERRY MIDDLE SCHOOL PROPERTY

RFQ # 20-02-09



The City of Miramar Commission:

Wayne M. Messam
Alexandra P. Davis
Winston F. Barnes
Maxwell B. Chambers
Yvette Colbourne
Vernon E. Hargray

Mayor
Vice Mayor
Commissioner
Commissioner
Commissioner
City Manager

City of Miramar
2300 Civic Center Place
Miramar, FL 33025

DATE ISSUED: FEBRUARY 27, 2020
DATE OPENS: MARCH 26, 2020 at 2:00 P.M

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IT IS SOLELY AND STRICTLY THE RESPONSIBILITY OF EACH PROPOSER TO SUBMIT PROPOSALS TO THE CITY OF MIRAMAR, OFFICE OF THE CITY CLERK, ON OR BEFORE:

PROPOSALS DUE: MARCH 26, 2020 AT 2:00 P.M.

**INSTRUCTIONS FOR SUBMITTING A PROPOSAL
IN RESPONSE TO A FORMAL
REQUEST FOR QUALIFICATIONS**

1. All Proposals must be submitted on 8 ½" by 11" paper, neatly typed with normal margins and spacing. The original document package must not be bound, but the document package copies should be individually bound.
2. Proposers must submit one unbound, one-sided original, and three two-sided bound copies (for a total of four) and **one USB containing an electronic version** of the complete Proposal to the City of Miramar ("City") by the Proposal Due Date and Time.
3. All required forms must be notarized, where necessary, by a registered notary, and completed by the Proposer submitting the Proposal.
4. The Proposal must be signed by an authorized officer of the Proposer who is legally authorized to enter into a contractual relationship with the City.
5. The original and all copies of the Proposal must be packaged in an envelope or container and submitted to the City at the following address:

**OFFICE OF THE CITY CLERK
CITY OF MIRAMAR
2300 CIVIC CENTER PLACE
MIRAMAR, FL 33025**

6. Proposals must include the following information clearly marked on the face of the envelope or container:
 - a) Proposer's name, return address and telephone number;
 - b) Solicitation number;
 - c) The Solicitation Due Date and Time; and
 - d) Title of the Solicitation

7. Hand-carried Proposals may be delivered during the City's regular business hours, Mondays through Thursdays, excluding holidays observed by the City, but not beyond the Due Date and Time.
8. Proposals submitted at the same time for different solicitations shall be placed in separate envelopes and each envelope shall contain the information stated in paragraph 6 above.
9. The submittal of a Proposal by a Proposer will be considered by the City as constituting an offer by the Proposer to perform the requested Services and/or provide the required Goods, at the stated price. No response by the City, however, shall be considered an acceptance unless and until a Contract is executed by the Successful Proposer and the City and approved and authorized by the City Commission, if applicable. Proposals shall be guaranteed to remain open for 180 days from the Due Date and Time.
10. Proposers are responsible for informing any commercial delivery service, if used, of all delivery requirements and for ensuring that the required, previously stated information appears on the outer package or envelope used by such service.

PROPOSERS WHO FAIL TO INCLUDE THE ABOVE INFORMATION ON THE FACE OF THEIR PROPOSALS MAY BE DEEMED "NON-RESPONSIVE," AND SUCH PROPOSERS SHALL HAVE NO GROUNDS OF PROTEST IN THE EVENT THEIR PROPOSALS ARE OPENED IN ERROR.

THE CITY IS NOT RESPONSIBLE FOR DELAYS CAUSED BY ANY MAIL, PACKAGE OR COURIER SERVICE, INCLUDING THE U.S. MAIL, OR CAUSED BY ANY OTHER OCCURRENCE. ANY PROPOSAL RECEIVED AFTER THE DUE DATE AND TIME STATED IN THE SOLICITATION TIMETABLE IN THIS REQUEST FOR QUALIFICATIONS WILL NOT BE OPENED AND WILL NOT BE CONSIDERED. TELEGRAPHIC OR FACSIMILE PROPOSALS WILL NOT BE CONSIDERED.

SECTION 1

GENERAL TERMS AND CONDITIONS

1-1 DEFINITIONS

Wherever used in these General Terms and Conditions or in the other Contract Documents the following terms have the meanings indicated:

The term "Addenda" shall mean the written or graphic instruments issued which make additions, deletions, or revisions to the Solicitation.

The term "Application for Payment" shall mean the form furnished by the Consultant to request progress or final payment and which includes such supporting documentation as is required by the Contract Documents.

The term "Amendment" shall mean a document signed by the Consultant and the City that authorizes an adjustment in the Work, Contract Price or Contract Time.

The terms "Architect" or "Consultant" shall refer to the professional that will contract with the City to provide professional architectural and/or design Services for this Project.

The term "Best and Final Proposal(s)" shall refer to the final quote submitted after negotiations are completed containing the Proposer's most favorable terms for price, Services and products to be delivered.

The terms "CBE" or "SBE" Firm is defined as a Small Business Enterprise ("SBE") or a County Business Enterprise ("CBE") which has a Broward County Business Tax Receipt, is located and doing Business in Broward County, and is certified as such by the Broward County Office of Economic Development and Small Business Development.

The term "Change Order" shall mean a document which is signed by the Contractor and the City and authorizes an adjustment in the Work, Contract Price and/or Contract Time.

The term "Chief Procurement Officer" shall refer to the Director of the City's Procurement Department.

The term "City" shall refer to the City of Miramar, Florida, or its City Commission, as applicable.

The term "City Commission" shall mean the governing and legislative body of the City.

The term "City Manager" shall mean the chief administrative officer of the City as defined by City Charter and/or Code of Ordinances.

The term "Claim" shall mean a demand, assertion, dispute or other such claim by one of the parties arising out of or based upon the terms and conditions of the Contract Documents.

The term "Contract Documents" shall mean the Request for Qualifications, all attachments and exhibits, Qualification Forms (including the Quote, information required of Proposer, and all required certificates and affidavits), Contract, Performance Bond, Payment Bond, General Terms and Conditions (if any), Special Conditions (if any), Technical Specifications (if any), Drawings, and all addenda and Change Orders.

The terms "Contract" or "Agreement" shall refer to the Contract that may result from this Request for Qualifications. "Contract" shall refer to the enclosed contract, provided for illustrative purposes only, and subject to modification by the City.

The term "Contract Price" shall mean the original contract amount established in the Proposal and awarded by the City, as may be amended by Change Order (if any).

The term "Contract Time" shall mean the original time between commencement and completion established in the Contract, as may be amended by Change Order (if any).

The term "Day" shall mean a calendar day of 24 hours measured from midnight to 11:59 P.M.

The term "Defective Work" shall mean Work that is unsatisfactory, faulty, or deficient; or that does not conform to the requirements of the Contract Documents; or that does not meet the requirements of any inspection, reference standard, test, or approval referred to in the Contract Documents; or Work that has been damaged prior to a recommendation of final payment.

The term "Design Consultant" or "Consultant" or "Architect" or "Engineer" shall refer to the design professional engaged by the City to provide professional design Services for this Project.

The terms "Drawings" and/or "Plans" shall mean the official drawings, plans, maps, profiles, diagrams, and other graphic representations which show the character, location, nature, extent, and scope of the Work and which have been prepared by the Consultant and are referred to in the Contract Documents. Shop Drawings are not drawings.

The term "Due Date and Time" shall refer to the due date and time listed in the Solicitation Timetable stated in Section 2 of this Solicitation.

The term "Effective Date of the Agreement" shall mean the date indicated in the Agreement on which it was executed. If no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the parties to sign and deliver.

The terms "Engineer", "Architect" or "Architect/Engineer" shall mean the City's engineer or architect.

The term "Final Completion" shall mean the date on which all conditions and requirements of any permits and regulatory agencies have been satisfied; any documents required by the Contract Documents have been received by the City; any other documents required to be provided by the Consultant have been received by the City; and the Work defined herein has been fully completed in accordance with the terms and conditions of the Contract Documents.

The term "Force Majeure" shall mean any delay occasioned by superior or irresistible force(s) occasioned by violence in nature without the interference of human action, such as, hurricanes, tornados, flood and loss caused by fire and other similar unavoidable casualties; changes in federal Law, state or local Laws, ordinances, codes or Regulations, enacted after the date of this Agreement and having a substantial impact on the Project; other causes beyond the parties control; or by any other such causes which the City and the Consultant decide in writing to justify the delay. Provided, however, that market conditions, labor conditions, and similar matters which normally impact the Work shall not be considered Force Majeure.

The term "General Requirements" shall mean any and all requirements set forth in this Solicitation.

The term "Goods" shall refer to all Materials and commodities that will be required to be provided by the Successful Proposer in accordance with the Scope of Work and the terms and conditions of this Solicitation.

The terms "Laws and Regulations", or "Laws" or "Regulations" shall mean the laws, rules, regulations, ordinances, codes, and/or orders promulgated by a lawfully constituted body authorized to issue such laws and regulations, including the applicable federal, state and local government entities and/or agencies.

The term "Local Business" shall refer to a firm that is domiciled and doing business within the City of Miramar City limits and complies with all City of Miramar licensing requirements, and is current on all City taxes.

The term "Materials" shall mean materials incorporated in this Project or used or consumed in the performance of the Work.

The term "Notice of Intent to Award" shall mean the written notice by the City to the apparent Successful Proposer stating that upon compliance by the apparent

Successful Proposer with the conditions precedent therein within the time specified, the City may enter into a Contract.

The term "Notice to Proceed" shall mean any written notice issued by the City to the Successful Proposer authorizing the Successful Proposer to proceed with the Work.

The terms "Procurement Office" or "Procurement Department" shall refer to the Procurement Office of the City.

The term "Proposal" shall mean any offer(s) submitted in response to this Request for Qualifications.

The term "Proposal Forms" shall mean the forms required to be submitted in accordance with this Request for Qualifications.

The term "Proposer" shall refer to any architect or engineer submitting a Proposal in response to this Request for Qualifications.

The terms "Request for Qualifications", "RFQ" or "Solicitation" shall mean this Request for Qualifications, including all exhibits, attachments, amendments and change orders issued by the Procurement Department.

The terms "Specifications" or "Technical Specifications" shall mean those portions of the Contract Documents consisting of the General Requirements and written technical descriptions of products and execution of the Work.

The terms "Subcontractor" or "Subconsultant" shall refer to any person, firm, entity, or organization, other than the employees of the Successful Proposer, who contracts with the Successful Proposer to furnish labor, or labor and Materials, in connection with the Work or Services for the City, whether directly or indirectly on behalf of the Successful Proposer.

The term "Substitutions" shall mean Materials, products, equipment or system, that are alternate from those originally specified in the Contract Documents.

The term "Successful Proposer" shall refer to the Consultant or Architect receiving an award of a Contract as a result of this Request for Qualifications.

The term "Supplier" shall mean a manufacturer, fabricator, supplier, distributor, Material man, or Vendor.

The term "Surety" shall mean the surety company or individual which is bound by the performance bond and payment bond with and for the Successful Proposer who is primarily liable, and which surety company or individual is responsible for the Successful Proposer's satisfactory performance of the Work under the Contract and for the payment of all debts pertaining thereto in accordance with Section §255.05,

Florida Statutes.

The term “Taxes” shall mean all taxes related to the performance of the Work or any portion thereof, including but not limited to all sales, consumer, use, occupational, excise, social security, unemployment compensation and similar taxes.

The term “Vendor” shall mean all merchants, Material men, Suppliers of labor, Material and equipment, providers and all other professionals who are currently under service contracts with the City and are delivering Services to the City.

The term “Weather Delays” shall mean Work stoppage caused by abnormal inclement weather, where abnormal duration and frequency of rain or exceptionally adverse weather as compared with the Weather Bureau data and supported by Project logs, has caused the Consultant to suspend critical path activities during the exceptional adverse weather event for more than 50 percent of the Work period of the Day. Weather delay claims can be made for Work Day only. No time extension will be allowed for weekend rains.

The term “Work Day” shall be as defined in Section 10-114 of the City of Miramar Code of Ordinances, being the time between the hours of 7:00 A.M. and 6:00 P.M. on weekdays, except when Work is necessary for the proper care and protection of Work already performed, or except in case of emergency, or unless otherwise provided in the General Requirements.

The terms “Work”, “Scope of Work”, “Scope of Services”, “Services”, “Program”, “Project”, or “Engagement” shall mean all matters and things and includes all labor, Materials, equipment and Services that are required to be provided by the Successful Proposer in accordance with this Solicitation.

1-2 AVAILABILITY OF REQUEST FOR QUALIFICATIONS

Copies of this Solicitation package may be obtained from DemandStar at www.demandstar.com or by calling (800) 711-1712. DemandStar distributes the City’s solicitations through electronic download, by facsimile, or through the United States Postal Service.

Proposers are **not** required to register with DemandStar to receive a copy of a City solicitation. Registration with DemandStar.Com is optional and at the sole discretion of the Proposer. **DemandStar does not charge a fee for registering with the City of Miramar.** However, Proposers who obtain copies of this Solicitation from sources other than DemandStar.com risk failing to receive amendments if their names are not included on the list of firms participating in the Solicitation process.

To request the Solicitation package from the City’s Procurement Department, your request should include the following information: the Solicitation number and title,

the name of the potential Proposer's contact person, the potential Proposer's name, complete mailing address, telephone number, and fax number.

1-3 CONE OF SILENCE

Proposers are notified that this Solicitation is subject to a "Cone of Silence." From the time of advertising and until the City Commission approves an award, there is a prohibition on communication by Proposers (or anyone on their behalf) with City's professional staff or Evaluation Committee members regarding this RFQ. This does not apply to oral communications at pre-proposal conferences, oral presentations before evaluation committees, Contract negotiations, public presentations made to the City Commission during any duly noticed public meeting, or communications in writing at any time with any City employee, official, or member of the City Commission regarding matters not concerning this Solicitation.

Any questions, explanations, or other request by Proposers regarding this Solicitation must be requested in writing to the City's Procurement Department noted below. In addition to other penalties, violation of these provisions may render a Proposal "Non-Responsive" and an award to a Proposer "Voidable."

The contact information for the City's Procurement Department is:

Procurement Department
City of Miramar
2200 Civic Center Place
Miramar, Florida 33025
Facsimile: (954) 602-3941
Brenda Martin, Email address: bamartin@miramarfl.gov

1-4 CONTENTS OF SOLICITATION

a) General Conditions.

1) It is the sole responsibility of the Proposer to become thoroughly familiar with the Solicitation requirements and all terms and conditions affecting the process of this Solicitation. Pleas of ignorance by the Proposer of conditions that exist, or that may exist, will not be accepted as a basis for varying the requirements of this Solicitation.

2) The Proposer is advised that this Solicitation is subject to all legal requirements and all other applicable Laws and Regulations.

b) Additional Information/Addenda.

1) Requests for additional information, explanation, clarification or interpretation must be made in writing to the Procurement Department

at the address listed above. Requests must be received by the Procurement Department by the Due Date and Time stated in the Solicitation Timetable. Any request received after that time may not be reviewed for inclusion in this Solicitation. Requests shall contain the requester's name, address, telephone number, fax number and e-mail address.

2) Responses to any inquiry shall be made by the Procurement Department, by written Amendment to the Solicitation, per the date stated in the Solicitation Timetable. The Proposer shall not rely on any representation, statement or explanation other than those made in this Solicitation or in any Addenda issued. Where there appears to be a conflict between this Solicitation and any Addenda issued, the last Addendum issued shall prevail.

3) It is the Proposer's responsibility to ensure receipt of all Addenda and substitute Proposal Forms. It is the Proposer's further responsibility to verify with the Procurement Department, prior to submitting a Proposal, that all Addenda have been received. The Proposer shall submit the Proposal form entitled "**ADDENDA ACKNOWLEDGMENT FORM**" with their Proposal.

c) Conflicts in this Solicitation.

Where there appears to be a conflict between the General Terms and Conditions (if any), the Special Conditions (if any), the Specifications or Scope of Work and Specific Requirements, the Contract, or any Amendment issued, the order of precedence shall be: the last Addendum issued, the Specifications or Scope of Work and Specific Requirements, the Special Conditions (if any), the General Terms and Conditions (if any), and the Contract.

Where there appears to be a conflict of the Due Date and Time listed anywhere in this Solicitation, it is the sole responsibility of the potential Proposer to verify the Due Date and Time by contacting the City's Procurement Office at the address indicated above.

1-5 PREPARATION AND SUBMISSION OF A PROPOSAL

a) Preparation/Submission.

1) The Proposal Forms shall be used when submitting a Proposal. Use of any other forms may result in the Proposer's Proposal being deemed "Non-Responsive."

2) The Proposal shall be typed or completed legibly in ink. The Proposer's authorized agent shall sign the Proposal Forms in ink, and all

corrections made by the Proposer shall be initialed in ink by the authorized agent. The use of pencil or erasable ink or failure to comply with any of the foregoing may result in the submittal being deemed "Non-Responsive."

Upon request, the City will provide a tax exemption certificate, if applicable.

Any special tax requirements will be specified either in the Special Conditions or in the Specifications.

3) Any telegraphic or facsimile Proposal shall not be considered.

4) The apparent silence or omission of any detail or description concerning the Services requested in the Scope of Work and/or any Amendment regarding same shall be interpreted as meaning only the best commercial practices are to prevail, and that only Materials and workmanship of first quality will be used. All interpretations of the Scope of Work shall be made upon the basis of this Solicitation, and if the Solicitation is silent, on industry standards of best practices.

b) Vendor Registration is **not** required.

c) Criminal Conviction Disclosure.

Any individual submitting a Bid who has been convicted of a felony during the past 10 years and any corporation, partnership, joint venture or other legal entity submitting a Bid or assisting in the performance of Work that has an officer, director, or executive who has been convicted of a felony during the past 10 years shall disclose this information with its Bid. Forms for the disclosure of such information are available from the Procurement Department.

d) Sworn Statement on Public Entity Crimes.

Pursuant to Paragraph 2(a) of Section §287.133, Florida Statutes, "[A] person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list."

All Proposers shall submit a signed and notarized statement with their Proposals on the form entitled "**PUBLIC ENTITY CRIMES.**"

e) Drug-free Workplace Preference.

All public bids or Proposals are subject to the City's Preference to Businesses with Drug-free Workplace Program as defined in Section 2-456 of the City's Code. The City grants a preference to a business with a drug-free workplace program whenever two or more Proposals are equal with respect to price, quality, and Services. The Drug-free Workplace Vendor shall have the burden of demonstrating that its program complies with Section §287.087, Florida Statutes, and any other applicable state Law. All Proposers shall submit the form entitled "**DRUG-FREE WORKPLACE AFFIDAVIT.**"

f) Anti-Kickback Affidavit.

All Proposers shall submit the duly signed and notarized form entitled "**ANTI-KICKBACK AFFIDAVIT.**"

g) Non-Collusion Affidavit.

All Proposers shall affirm that they shall not collude, conspire, connive or agree, directly or indirectly, with any other Proposer, firm, or person to submit a collusive or sham Proposal in connection with the Work for which their Proposal has been submitted; or to refrain from submitting a Proposal in connection with such Work; or have in any manner, directly or indirectly, sought by any person to fix the price or prices to be negotiated or that of any other Proposer to be negotiated, or to fix any overhead, profit, or cost elements of the price to be negotiated, or that of any other Proposer to be negotiated, or to secure through any collusion, conspiracy, connivance, or unlawful agreement any advantage against any other Proposer, or any person interested in the proposed Work. All Proposers shall submit the duly signed form entitled "**NON-COLLUSION AFFIDAVIT.**"

h) Non-Discrimination Affidavit.

All Proposers shall affirm that their organization shall not discriminate against any person in its operations, activities or delivery of Services. Proposers shall also affirmatively comply with all applicable provisions of federal, state and local equal employment Laws and shall not engage in or commit any discriminatory practice against any person based on race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for Service delivery. All Proposers shall submit the duly signed and notarized form entitled "**NON-DISCRIMINATION AFFIDAVIT.**"

i) Business/Vendor Profile Survey.

All Proposers shall provide the City with the information requested in the Business/Vendor Profile Survey prior to being recommended for award of any Contract resulting from this Solicitation.

j) Request for Taxpayer Identification Number and Certification.

All Proposers shall provide the City with their taxpayer identification number prior to being recommended for award of any Contract resulting from this Solicitation.

k) Antitrust Laws.

By submission of a signed Proposal, the Successful Proposer acknowledges compliance with all antitrust laws of the United States and the State of Florida.

l) Conflicts of Interest.

The award of the Contract hereunder is subject to the provisions of Chapter 112, Florida Statutes. Proposers shall disclose the name of any officer, director, partner, associate, or agent who is also an officer, appointee, or employee of the City at the time of the Proposal or within one year prior to the Due Date and Time. Proposers are required to disclose any such conflict that occurs after the Proposal Due Date and Time at the time of occurrence of such conflict of interest.

m) Collection of Fees and Taxes.

By acceptance of a Contract, the Successful Proposer acknowledges compliance with the requirement that all delinquent and current fees and Taxes due to the City from the Proposer have been paid. The City may require verification and satisfaction of all delinquencies and current fees and Taxes due prior to recommending a Proposer for the award of any Contract.

n) Preference for CBE or SBE Firms and Local Bidders.

The City encourages CBE/SBE firms to compete for City contracts, and also encourages non-CBE/SBE firms and other minority vendors to use CBE/SBE firms as subcontractors. The City, its vendors, Suppliers, and Consultants should take all necessary and reasonable steps to ensure that CBE/SBE businesses have the opportunity to compete for and perform Contract work for the City in a nondiscriminatory environment.

To request certification or to locate a listing of certified CBE/SBE firms, access the Broward County CBE/SBE website on the Internet at: <https://webapps4.broward.org/smallbusiness/sbdirectory.aspx>. To request a current listing of local Miramar businesses, please contact the City's Procurement Department at (954) 602-3054.

- 1) Except where federal, state or county Law mandates to the contrary, or as otherwise provided herein, the City, pursuant to its purchasing authority, shall grant preference in the amount of five percent of any Bid or five points of any Bid score to a CBE or SBE Firm. Such preference shall apply to Bids or proposals for commodities, Services and construction.
- 2) Except where federal, state or county Law mandates to the contrary, or as otherwise provided herein, the City, pursuant to its purchasing authority, shall grant a preference in the amount of five percent of any Bid or five points of any Bid score to a Local Business. Such preference shall apply to Bids or proposals for commodities, Services and construction.
- 3) A vendor located outside the City of Miramar City limits is considered equivalent to a Miramar vendor and accorded the same preference if the greater of any one of the following is satisfied: 1) it employs a minimum of 10 full-time equivalent ("FTE") Miramar residents in the company's local workforce; or 2) Miramar residents constitute a minimum of 20 percent of the company's local workforce (Broward and Miami-Dade Counties), whichever is larger. Such preference shall apply to Bids or Proposals for commodities and services.

Application of preferences. In the application of any preference granted by the City Code or City policies in regard to this RFQ, the preference is applied by adding the specified points to the evaluation criteria scoring.

1-6 LATE PROPOSALS, LATE MODIFICATIONS, AND LATE WITHDRAWALS

Proposals received after the Solicitation Due Date and Time shall not be accepted, opened, or considered. Modifications of Proposals received after the Solicitation Due Date and Time shall also not be accepted or considered. Withdrawals of Proposals received after the Solicitation Due Date and Time or prior to the expiration of 180 calendar days after the Solicitation Due Date and Time shall not be accepted or allowed.

1-7 SOLICITATION POSTPONEMENT OR CANCELLATION

The City may, in its sole and absolute discretion, at any time prior to City Commission award and approval of a Contract, reject all or any parts of any or all

Proposals, re-advertise this Solicitation, postpone or cancel this Solicitation or waive any irregularities in this Solicitation or any process used in this Solicitation.

1-8 COST OF PROPOSALS

All expenses involved with the preparation and submission of Proposals to the City shall be borne by the Proposer(s). No payment shall be made for any responses received by the City or effort required of or made by the Proposer(s) prior to commencement of Work authorized pursuant to the Contract.

1-9 ORAL PRESENTATIONS

The City may require Proposers to perform oral presentations in support of their Proposals or to exhibit or otherwise demonstrate the information contained therein. This presentation or demonstration may be performed before the Evaluation/Selection Committee and/or the City Commission. If required, the City shall provide Proposers with as much advance notice as possible prior to the date of such a presentation.

1-10 EXCEPTIONS TO THE SOLICITATION

Exceptions are not applicable to this Solicitation. Taking exceptions in the Proposal may render the Proposal "Non-Responsive".

1-11 PROPRIETARY/CONFIDENTIAL INFORMATION

Proposers are provided with notice that all information submitted as part of or in support of Proposals will be available for public inspection after opening of the Proposals, in compliance with Chapter 119, Florida Statutes, popularly known as the "Public Records Law". Any person wishing to view the Proposals must make an appointment with the City's Clerk.

All Proposals submitted in response to this Solicitation shall become the property of the City. Unless the information submitted is proprietary, copywritten, trademarked, or patented, the City reserves the right to utilize any or all information, ideas, conceptions, or portions of any Proposal in its best interest. Acceptance or rejection of any Proposal does not affect the City's rights hereunder. Proposers, when submitting their Proposals, must clearly notify the City of any proprietary information within their Proposal.

1-12 EVALUATION OF PROPOSALS

a) Rejection of Proposal.

- 1) The City may reject any Proposal, and award the Contract to the next highest scoring Proposer or re-advertise for all or any part of this Solicitation whenever it is deemed in the best

interest of the City, in the City's sole discretion. The City shall be the sole judge of what is in its "best interest". The City may reject any Proposal if the Proposer does not accept or attempts to modify the terms and conditions of this Solicitation.

- 2) The City may reject any Proposal if prices are not reasonable, or if they exceed the City's budget for the Project, as determined by the City.
- 3) The City may reject any part of this Solicitation or award any part, whenever it is deemed in the best interest of the City. The City shall be the sole judge of what is in its "best interest."

b) Elimination from Consideration.

No Contract shall be awarded to any person or firm that is in default to the City as a result of any debt, Tax, or other obligation.

c) Waiver of Informalities.

The City reserves the right to waive any informalities or irregularities in this Solicitation.

d) Demonstration of Competency.

1) A Proposal will only be considered from a firm regularly engaged in the business of providing the Goods and/or Services required by this Solicitation. The Proposer must be able to demonstrate a good record of performance and have sufficient financial resources, equipment and organization to ensure that they can satisfactorily provide the Goods and/or Services required by this Solicitation.

2) The City may conduct a pre-award inspection of the Proposer's facilities and site or hold a pre-award qualification hearing to determine if the Proposer is capable of performing the requirements of this Solicitation. The City may consider any evidence available regarding the financial, technical or other qualifications and abilities of the Proposer, including past performance and experience with the City or any other governmental entity or private entity in making the award of any Contract.

3) The City reserves the right to audit all records pertaining to any award resulting from this Solicitation, whether financial or otherwise.

4) The City may require the Proposer to show evidence that it has been designated as an authorized representative of a manufacturer, Supplier and/or distributor if required by this Solicitation.

5) In determining a Proposer's responsibility and ability to perform the Contract, the City has the right to investigate and request information as to whether the Proposer can perform the Contract within the time specified without delay or interference; the character, integrity, reputation, judgment, experience and efficiency of the Proposer; the quality of performance of previous contracts of a similar nature; the previous and existing compliance by the Proposer with Laws and ordinances relating to any other contract; the Proposer's record with environmental regulations; and the claims and litigation history of the Proposer.

e) Copy of Abstract of Proposals.

A copy of the Proposal abstract will be made available through www.DemandStar.com or may be requested in person from the Procurement Department. Proposal results shall not be provided by telephone or facsimile.

1-13 NEGOTIATIONS

The City, in its sole discretion, reserves the right to enter into Contract negotiations with the highest evaluation scoring, most qualified responsive, responsible Proposer whose Proposal is most advantageous to the City. If the City and that Proposer cannot negotiate a successful Contract, the City may terminate those negotiations and begin negotiations with the next most qualified responsive, responsible Proposer. This process may continue until a Contract acceptable to the City has been executed or all Proposals are rejected. No Proposer shall have any rights against the City arising from such negotiations or termination thereof.

To assure full understanding of and responsiveness to the Solicitation requirements and full understanding of qualified Proposals, discussions may be conducted with qualified Proposers who submit responses determined to be reasonably acceptable of being selected for award for the purpose of clarification and to assure full understanding of, and responsiveness to, the Solicitation requirements. The Proposers shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of Proposals, and such revisions may be permitted through negotiations prior to award for the purpose of obtaining Best and Final Proposals.

1-14 AWARD OF AN AGREEMENT

a) Agreement.

This Solicitation contains the document entitled "AGREEMENT". After award, a Contract similar to the Agreement, inclusive of all attachments and any modifications which the City ***in its sole discretion may make*** and reflecting all requirements, terms and conditions of this Solicitation and any negotiated changes, will constitute the entire

agreement between the parties. No rights shall inure to the Successful Proposer pursuant to this Solicitation until the Contract has been executed by both parties thereto.

b) Additional Information.

The award of the Contract may be preconditioned on the subsequent submission of other documents in connection with this Solicitation. The Successful Proposer shall be deemed "Non-Responsive" if such documents are not submitted in a timely manner and in the form required by the City. Where the Successful Proposer is deemed "Non-Responsive" as a result of such failure to provide the required documents, the City may award the Contract to the next most qualified, responsive, responsible Proposer.

c) Independent Contractor.

The Successful Proposer shall be a Consultant operating independently from the City. The employees and Subcontractors or Subconsultants of the Successful Proposer shall not be considered or deemed employees, Subcontractor or Subconsultants or agents of the City, nor shall such employees and Subcontractor or Subconsultants of the Successful Proposer have any privity of contract with the City. Neither the Successful Proposer nor any of its employees shall receive any City benefits. The Successful Proposer shall supply competent and physically capable employees and Subcontractor or Subconsultants. The City may require the Successful Proposer to remove any employee or Subcontractor or Subconsultant it deems careless, incompetent, insubordinate, or otherwise objectionable and whose continued performance of the Services is not in the best interest of the City.

d) Contract Extension.

To the extent applicable, the City reserves the right to automatically extend the Contract for up to 180 calendar Days beyond the stated Contract term under the same terms and conditions of the Contract. The City shall notify the Successful Proposer(s) in writing of such extensions. Additional extensions beyond the first 180 Day extension may occur, if approved by the City Commission with the mutual agreement of the Successful Proposer.

e) Limited Contract Extension.

Any Work commencing prior to the termination date of the Contract and extending beyond the termination date shall, unless terminated by mutual written agreement of both parties, continue until completion at the same prices, terms and conditions as set forth in the Contract.

f) Warranty.

Any implied warranty granted under the Uniform Commercial Code shall apply to all Goods provided pursuant to the Contract.

g) Non-Exclusive Contract.

Although the purpose of this Solicitation is to secure a Contract that can satisfy the total needs of the City, it is agreed and understood that the Contract does not grant any exclusive rights to the Successful Proposer to receive all orders that may be generated by the City in connection with the types of Goods and/or Services required herein.

1-15 RIGHT OF APPEAL

a) After a notice of intent to award a Contract is posted by the City, any actual or prospective Proposer who is aggrieved in connection with the pending award of the Contract or any element of the Solicitation process may file a protest with the Chief Procurement Officer. A protest must be filed within five business days after the posting of the notice of award or the right to protest is forfeited. The protest must be in writing, must identify the name and address of the protester, and must include a factual summary of, and the basis for, the protest. Filing shall be considered complete when the written protest and accompanying required filing fee are received by the Chief Procurement Officer.

b) The protester must include a nonrefundable filing fee to compensate the City for the expenses of administering the protest. The fee shall be in the form of cash or a cashier's check, and in accordance with the schedule provided below:

Contract Award	Protest Filing Fee
\$10,000-\$50,000	\$500.00
\$50,001-\$250,000	\$1,000.00
\$250,001 and greater	1% of the pending award or \$5,000.00, whichever is greater

1.16 PERFORMANCE EVALUATION

The Successful Proposer's work will be evaluated at the completion of this Project by the City's Project Manager for this Project.

1.17 PURCHASING CARD (P-CARD)

The City has implemented a Procurement Card (P-Card) Program. Proposers must have the capability to accept credit cards for payments or must be willing to take the necessary steps in order to accept credit card payments by the City prior to the implementation of this agreement as the City may opt to use the P-Card as its method of payment.

While acceptance of credit cards for payments may be mandatory, this shall not be the City's exclusive method of payment. Proposers shall not charge a surcharge, convenience fee or any other fees associated with the acceptance of payment by the City's P-Card.

1.18 COOPERATIVE PURCHASING AGREEMENT

This Solicitation may be expanded to include other governmental agencies provided a cooperative Purchasing Agreement exists or an Inter-Local Agreement for joint purchasing exists between the City and other public agencies. The Contractors may agree to allow other public agencies to contract with them for the same items at the same terms and conditions as this Solicitation, during the period of time that this Solicitation is in effect. Each political entity will be responsible for execution of its own requirements with the Contractor.

SECTION 2

SCOPE OF WORK AND SPECIFIC REQUIREMENTS

2-1 PURPOSE

Following the requirements of Section §287.055, Florida Statutes, the “Consultants Competitive Negotiation Act”, the City of Miramar is seeking to engage the Services of a qualified licensed Consultant to provide professional services for the School Board of Broward County’s Perry Middle School (the “Project”).

2-2 GENERAL DESCRIPTION

This Project includes Design and Construction Administration services for the proposed School Board of Broward County (“SBBC”) Recreation Amenities at the existing Perry Middle School site. The Proposers must be licensed to perform all nature of Design and Construction Administrative services required for the Project and have extensive experience working on design development and construction of the proposed scope of work described herein.

2-3 SCOPE OF WORK

The scope of work will include, but is not limited to: the miscellaneous demolition of the existing recreation amenities; Constructing new tennis courts; Constructing new running track surrounding an open play / soccer field area; stabilizing and securing pre-engineered restroom buildings; constructing a roadway expansion; miscellaneous furnishings and site lightings.

2-4 MINIMUM REQUIREMENTS

A. In order for a Proposal to be considered by the City, Proposers shall demonstrate in their Proposals compliance with the following minimum requirements:

- i. Proposers must be currently certified, licensed and authorized to perform professional design Services in the State of Florida;
- ii. The Consultant shall have 5 years of experience working as a design firm within the State of Florida on projects similar in scope; and
- iii. Proposers must be currently insured and satisfy insurance requirements applicable by Law to perform the Services, with insurance certificates that state the name of the Proposer, current street address of the business and the type of work that the Business Tax Receipt is issued for, and all additional insurance requirements, including required endorsements, as specified herein; and
- iv. The Consultant shall demonstrate previous experience in designing park and recreational amenities such as, tennis courts, track fields,

and soccer fields within the last 5 years and those facilities are currently functioning accordingly.

B. The City will not consider Proposals that fail to demonstrate compliance with the above requirements. The Consultant shall maintain and keep in force throughout the life of the Contract all renewals and extensions, if any, pertaining or relating to the requirements specified in this Section. Failure of the Consultant to comply with these requirements will be sufficient grounds for the City to declare the Consultant in default and subject the Contract to possible termination by the City.

2-5 SOLICITATION TIMETABLE

The anticipated schedule for this Solicitation and the award of any resulting Contract shall be as follows:

RFQ TIMETABLE	
RFQ advertised	February 27, 2020
Pre-Proposal Conference held in the Construction Support Services Conference Room, 2 nd Floor, 2200 Civic Center Place, Miramar, Florida.	March 10, 2020, at 11:00 A.M.
Deadline for written questions	March 13, 2020
Due Date and Time for this RFQ	March 26, 2020 at 2:00 P.M.

The above schedule is not final. The City reserves the right to modify the above dates and times, at its discretion.

2-6 TERM OF CONTRACT: UPON COMPLETION AND ACCEPTANCE

The Contract resulting from this Solicitation shall commence upon the last date of execution and shall remain in effect until such a time as the Services acquired in conjunction with this RFQ have been completed and accepted by the City.

2-7 METHOD OF AWARD: TO THE HIGHEST MOST QUALIFIED EVALUATION SCORING, RESPONSIVE, RESPONSIBLE PROPOSER(S) (SUBJECT TO SUCCESSFUL NEGOTIATION AND APPROVAL OF A CONTRACT)

A. This Solicitation shall require City Commission approval of the final ranking and recommended award of the RFQ to the highest most qualified evaluation scoring responsive, responsible Proposer, subject to the subsequent successful negotiation and approval of a mutually agreeable Contract substantially in the form of the Agreement attached to this RFQ, and in accordance with Section 2-412 of the City Code.

B. The Chief Procurement Officer or designee shall enter into Contract negotiations with the highest most qualified evaluation scoring, responsive, responsible Proposer whose Proposal is most advantageous to the City. If the City is unable to negotiate a satisfactory Contract, negotiations with that Proposer may be terminated

and negotiations may begin with the second most qualified Proposer. If these negotiations also prove unsatisfactory, negotiations may again be terminated, and the City may negotiate with the third most qualified firm. If the short-list of qualified firms is exhausted, the City may select additional Proposers with whom to attempt to negotiate a Contract, in the order of their ranking.

C. The resulting Contract shall contain requirements, terms and conditions consistent with this Solicitation, along with any modifications the City, in its sole discretion, may require or accept. No rights shall inure to the benefit of any Proposer pursuant to this Solicitation until the Contract has been executed by both parties and approved by the City Commission.

2-8 METHOD OF PAYMENT: PERIODIC INVOICES FOR SERVICES RENDERED

The Successful Proposer shall submit fully and accurately documented invoices within 30 calendar days after the Services have been rendered. These invoices shall be submitted to the City of Miramar, ATTN: Accounts Payable, 2300 Civic Center Place, Miramar, Florida 33025. All documentation shall reference the Contract number, the type of Service(s) provided, and the dates or period(s) that the Service(s) were provided in the prior 30 days.

2-9 INSURANCE

Proposer agrees that he/she/it will, in the performance of Work and Services under the Contract, comply with all federal, state and local Laws and Regulations now in effect or hereinafter enacted during the term of the Contract that are applicable to Successful Proposer, its employees, agents or Subcontractors, if any, with respect to the Work and Services described herein.

Proposer shall obtain at Proposer's expense all necessary insurance in such form and amount as required by the City's Risk Manager before beginning Work under the Contract, including but not limited to Workers' Compensation Insurance required by Law. Proposer shall maintain such insurance in full force and effect during the life of the Contract. Proposer shall provide the City's Risk Manager with certificates of all insurance and endorsements required under this section prior to beginning any Work under the Contract. Proposer shall make this same requirement of any of its Subcontractors to which Florida's Workers' Compensation Laws apply.

Proposer shall indemnify and save the City harmless from any damage resulting to them for failure of either Proposer or any Subcontractor to secure or maintain such insurance.

For programs that are active in nature, which shall be determined in the sole and exclusive discretion of the City, Proposer shall maintain commercial general, automobile (where applicable), workers' compensation and professional liability insurance in an amount acceptable to the City's Risk Manager.

Minimum Limits of Insurance

Proposer shall maintain the following minimum limits of insurance (unless higher limits are required by Law or statute):

1. Professional Liability: \$1,000,000
2. Commercial General Liability: \$1,000,000 Combined Single Limit per occurrence; property damage and medical expense \$10,000; personal injury and advertising injury liability \$1,000,000; products and completed operations policy aggregate \$2,000,000; and general aggregate \$2,000,000.
3. Automobile Liability: \$1,000,000 combined single limit per accident.
4. Employer's Liability: \$1,000,000 per accident for bodily injury by accident or disease.
5. Workers' Compensation: Statutory

Required Insurance Endorsements

The City requires the following insurance endorsements:

1. AUTOMOBILE - The City must be included as an additional insured by policy endorsement under Automobile Liability policy.
2. ADDITIONAL INSURED - The City must be included as an additional insured by policy endorsement under Commercial General Liability policy as in respects to liability arising from Work or operations performed by or on behalf of the Proposer.
3. WAIVERS OF SUBROGATION - Proposer agrees to waive all rights of subrogation against the City by policy endorsement for loss, damage, claims, suits or demands, however caused:
 - a. To property, equipment, vehicles, laptops, cell phones, etc. owned, leased or used by the Proposer or the Proposer's employees, agents or Subcontractors; and
 - b. To the extent such loss, damage, claims, suits or demands are covered, or should be covered, by the required or any other insurance (except professional liability to which this requirement does not apply) maintained by the Proposer.

This waiver shall apply to all first party property, equipment, vehicle and workers compensation claims, and all third party liability claims, including deductibles or retentions which may be applicable thereto. If necessary, the Proposer agrees to endorse the required insurance policies to acknowledge the required waivers of

subrogation in favor of the City. Proposer further agrees to hold harmless and indemnify the City for any loss or expense incurred as a result of Proposer's failure to obtain such waivers of subrogation from Proposer's insurers.

This Agreement shall not be deemed approved until the Proposer has obtained all insurance required under this section and has supplied the City with evidence of such coverage in the form of a Certificate of Insurance with additional insured and waiver of subrogation endorsements for policies as stated in the required insurance endorsement section above. The City shall be named as certificate holder in all of Proposer's liability insurance policies. The City shall approve such Certificates prior to the performance of any Services pursuant to this Agreement.

ALL INSURANCE COMPANIES PROVIDED SHALL: Be rated at least A VII per Best's Key Rating Guide and be licensed to do business in Florida. The Proposer's liability insurance shall be primary to any liability insurance policies that may be carried by the City. The Proposer shall be responsible for all deductibles and self-insured retentions on their liability insurance policies.

All of the policies of insurance so required to be purchased and maintained shall contain a provision or endorsement that the coverage afforded shall not be cancelled, materially changed or renewal refused until at least 30 calendar days written notice has been given to the City by certified mail.

2-10 CONTENTS OF PROPOSAL

To facilitate the analysis of responses to this RFQ, Proposers are required to prepare their Proposals in accordance with the instructions outlined in this Section. **Proposers must respond in full to all RFQ sections and follow the indicated RFQ format (section numbering, and similar matters) in their Proposals. Failure to follow these instructions may result in rejection of the Proposal.**

a) The Proposal must consist of the components listed below.

1) The Qualification Proposal:

i) Cover Page

The form entitled "PROPOSAL COVER PAGE" (SECTION 4) is to be used as the cover page for the Qualification Proposal. This form must be fully completed and signed by an authorized officer of the Proposer.

ii) Table of Contents

The Table of Contents should outline in sequential order the major areas of the Proposal. All pages of the Proposal, including

enclosures, must be clearly and consecutively numbered and correspond to the Table of Contents.

iii) Executive Summary

Each Proposer shall provide a brief summary describing the Proposer's ability to perform Work requested in this Solicitation; a history of the Proposer's background and experience providing services; the qualifications of the Proposer's personnel to be assigned to this Project; the Subcontractors, Subconsultants, and/or Suppliers (if any) and a brief history of their background and experience, and any other information called for by this Solicitation that the Proposer deems relevant. This summary should be brief and concise to apprise the reader of the experience and qualifications of the Proposer, staff, Subcontractors, Subconsultants, and/or Suppliers (if any).

iv) Required Information.

Proposers shall provide documentation that demonstrates their ability to satisfy the required information contained herein. Proposers who do not satisfy the requirements or who fail to provide supporting documentation and/or affidavits as specified herein may be deemed "Non-Responsive". If a prescribed format or required documentation for the response to information requirements is listed below, Proposers must use the required format and supply said documentation. See form entitled **"PROPOSER INFORMATION FORM" (SECTION 6)**.

v) Technical Information.

A) Describe the Proposer's approach to organization/management and the responsibilities of Proposer's management and Project personnel that will perform Work; describe methods or benchmarking systems used to ensure quality service, customer satisfaction, prompt complaint resolution, quality control, and timely initiation and completion of all Work.

B) Provide relevant background information on your firm, including a brief history, firm ownership, and organizational structure, location of headquarters, and number and location of offices.

C) List any subsidiary/affiliate company of the Proposer in the same business, the nature of the relationship, and the location of their office(s).

D) Provide a description or information concerning or substantiating each of the requirements below:

- 1) Drug-free Work Place.
- 2) Employee drug testing program.
- 3) Proposer's experience, past performance, financial capabilities, violations, and litigation.
- 4) Proposer's social responsibility, charitable acts and contributions, and benevolence programs.
- 5) Proposer's internal, organization-wide green and environmental programs and initiatives.

E) State the number of years the Proposer has been in business and the number of years in operation under the Proposer's current business name. Any business owner who has previously operated a business under another name must include a description of the previous business and identify the name of each business. Failure to include such information will be deemed by the City as an intentional misrepresentation and may render the Proposal "Non-Responsive".

F) Provide a detailed description of the largest projects the Proposer is either performing or has completed within the last five years which are similar in scope. Describe the Proposer's qualifications and experience realized by the performance and management of these projects. The specific role of the Proposer in any project that is included must be described in detail. The description should identify for each project or contract:

- 1) The name and size firm of the Proposer's client, address, telephone number and the name of the contact person;
- 2) A description of the required work;

3) The contract term;

4) A statement as to whether the Proposer was a prime consultant, Subcontractor, Subconsultant, Subcontractor or Supplier; and

5) The result of the project.

G) List any and all contracts the Proposer has performed for the City.

H) Describe any other experience related to the Work or Services described in **SECTION 2, SCOPE OF WORK AND SPECIFIC REQUIREMENTS**.

I) Proposers shall provide evidence of financial stability for the last five years.

J) Describe any prior or pending litigation or investigation, whether civil or criminal, involving a governmental agency or which may affect the performance of the Services to be rendered herein, in which the Proposer, any of its employees (while in the performance of their duties), Subcontractors or Subconsultants (if any) is or has been involved within the last five years.

K) Describe and explain any prior complaints (both substantiated and inconclusive) filed with any governmental agency against the Proposer or any of its employees (while in the performance of their duties), Subcontractors or Subconsultants (if any) within the last five years.

L) Confirm in your Proposal that your firm has errors and omissions insurance and identify the carrier and amounts.

vi) Key Personnel and Subcontractors or Subconsultants.

A) Provide an organizational chart showing all individuals, including their titles, who will perform any Work under the Contract. This chart must clearly identify the Proposer's employees and those of the Subcontractors or Subconsultants (if any).

B) Describe the expertise of your firm's professional staff for both the local office and the entire organization. Describe the experience, qualifications, and other relevant information, including relevant experience on similar contracts, for all key individuals and Subcontractors or Subconsultants (if any) who will perform Work under the Contract. This information shall include functions to be performed by key individuals, Subcontractors or Subconsultants to include the number of professionals in each of the following categories:

- 1) Licensed architectural/engineering consultants;
- 2) Unlicensed technical support staff; and
- 3) Administrative staff

C) Describe the team that would serve the City. List each team member's role on this Engagement, professional designation, qualifications, experience, education, and clients with similar services.

D) Provide resumes with job descriptions and other detailed qualifications and information on all key personnel who will be assigned to the Contract, including any Subcontractors or Subconsultants. The phrase "all key personnel" includes all partners, managers, senior employees and other professional or technical staff that will perform Work under the Contract.

E) List names and addresses of all first tier Subcontractors, Subconsultants, or Suppliers who will perform and/or provide Work or Services under the Contract.

F) The City strongly encourages and supports Proposers who are registered as CBE, SBE, and/or Local Businesses. Additional points will be allotted in the evaluation process for such businesses.

G) Participation Plan for the Project:

- 1) The City requires a minimum of 10% of the design and Project management Services to be performed by a CBE, SBE, and/or Local Business.

- 2) Proposers shall submit a Design Consultant Assurance Statement on company letterhead, signed by an authorized representative, affirming that company will comply with the City's non-discrimination policies, acknowledge the percentage requirements established for this Project, and agree to provide a good faith effort to solicit approved Broward County Office of Economic and Small Business Development firms or Local Businesses to achieve the Project Plan stated above.
- 3) The Project will be monitored throughout the Contract term and monthly utilization reports will be required to demonstrate compliance with Project goals in this regard. Contract penalties will be assessed for non-compliance. Submittals received without the required Assurance Statement will be considered Non-Responsive.

H) The Successful Proposer's work will be evaluated at the completion of this Project by the City's Project Manager for this Project. The Successful Proposer's Performance Evaluation form is attached for informational purposes. See forms entitled **"PROFESSIONAL SERVICES- PERFORMANCE EVALUATION"** and **"CONSTRUCTION SERVICES- PERFORMANCE EVALUATION"** (SECTION 15)

vii) Affidavits and Acknowledgements.

- A) **PROPOSAL COVER PAGE (SECTION 4)**
- B) **ADDENDA ACKNOWLEDGEMENT FORM (SECTION 5)**
- C) **PROPOSER INFORMATION FORM (SECTION 6)**
- D) **PROPOSER'S DISCLOSURE OF SUBCONTRACTORS, SUBCONSULTANTS, AND SUPPLIERS (IF ANY) (SECTION 7)**
- E) **DRUG-FREE WORKPLACE AFFIDAVIT (SECTION 8)**

- F) ANTI-KICKBACK AFFIDAVIT (SECTION 9)**
- G) NON-COLLUSIVE AFFIDAVIT (SECTION 10)**
- H) NON-DISCRIMINATION AFFIDAVIT (SECTION 11)**
- I) BUSINESS/VENDOR PROFILE SURVEY (SECTION 12)**
- J) PUBLIC ENTITY CRIMES (SECTION 13)**
- K) FORM W-9 REQUEST FOR TAXPAYER IDENTIFICATION NUMBER AND CERTIFICATION (SECTION 14)**
- L) VENDOR PERFORMANCE EVALUATION (SECTION 15)**
- M) REFERENCE QUESTIONNAIRE (SECTION 16)**

2-11 EVALUATION CRITERIA

A. Following the closing of the Solicitation, the Proposals will be evaluated by an evaluation committee appointed by the City. The evaluation committee may be comprised of any combination of City personnel and representatives selected by the City with the appropriate experience and/or knowledge to ensure that the committee is well balanced. The scoring of Proposals is based on a point total and not a percentage factor.

B. The evaluation committee will first evaluate and rank responsive Proposals based on the criteria listed below. The criteria are itemized with their respective weights for a maximum total of 100 points. A Proposer may receive the maximum points, a portion of this score, or no points at all, depending upon the merits of the Proposal as judged by the evaluation committee. A Proposal that fails to adequately show the qualifications and experience necessary for this Project shall be deemed "Non-Responsive" and will not be considered.

C. The evaluation committee reserves the right, but is not obligated, to require oral presentations from one or more of the Proposers, either before or after the initial ranking, and shall have the option to short-list and re-rank after the receipt of additional information from such presentations, follow-up questions and answers, on-site Proposer demonstrations, reference checks or site visits.

<u>Criteria</u>	<u>Points</u>
1) Consultant's background, qualifications, credentials and in-house expertise, factoring in the proposed Proposer team's current workload and experience working together on similar projects. Provide details regarding three similar projects performed by Proposer	25
2) Staff experience and resumes of team's personnel, including assigned Project Manager's experience in planning, designing, permitting and Construction administration services for projects of similar scope.	25
3) Previous experience with Design and Construction administration services on similar projects	20
4) Previous experience working with local regulatory, permitting agencies and governmental clients.	10
5) Understanding of the Project and Approach to Civil Engineering, Architectural/ M.E.P. Design, Construction, Scheduling and Cost.	10
6) Local Business Preference.	5
7) CBE or SBE Preference.	5
TOTAL	100

2-12 COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS

The Successful Proposer understands and acknowledges that agreements with governments are subject to certain Laws and Regulations, including laws pertaining to (without limitation) matters such as public records, conflict of interest, and record keeping. The Successful Proposer agrees to comply with and observe all applicable Laws, codes and ordinances, as they may be amended from time to time.

2-13 POINT OF CONTACT

For any additional information regarding the Specifications and requirements of this Solicitation, contact the Procurement Department at the address indicated herein.

FORMS

SECTION 3 AGREEMENT

(The City reserves the right to amend the terms and conditions set forth herein)



AGREEMENT BETWEEN THE CITY OF MIRAMAR, FLORIDA AND

FOR DESIGN SERVICES FOR THE SCHOOL BOARD OF BROWARD COUNTY'S PERRY MIDDLE SCHOOL

THIS AGREEMENT (the "Agreement") is entered into and dated [REDACTED], 20[REDACTED], 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 [REDACTED] (the "Engineer", "Architect" or "Consultant"), a Florida corporation whose address is [REDACTED].

WITNESSETH:

WHEREAS, the City issued Request for Qualification No. 20-02-09 (the "RFQ") for design services for the School Board of Broward County's Perry Middle School, located at [REDACTED], Miramar, Florida (the "Work", "Project" or "Services"); and

WHEREAS, Consultant was determined to be the highest most qualified evaluation scoring responsive, responsible Proposer; and

WHEREAS, Consultant and City have agreed upon a Scope of Services and fee for such Services; and

WHEREAS, on [REDACTED], 2020, the Miramar City Commission awarded the RFQ to Consultant; and

WHEREAS, Consultant is willing and able to perform these Services for the City within the basic terms and conditions set forth in this Agreement (the "Agreement"); and

WHEREAS, City desires to engage Consultant to perform the Services specified herein under the terms of this Agreement.

NOW THEREFORE, the City and Consultant, 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 the RFQ, which is deemed fully incorporated herein for all purposes, and have the meanings indicated in the RFQ or in the General Terms and Conditions incorporated herein and made a part hereof. In the event of conflict, the definitions and all other terms and conditions contained in the RFQ shall govern.

ARTICLE 2 **SCOPE OF SERVICES**

Upon request of the City, Consultant shall provide professional engineering consulting Services for the Project to include Design and Construction Administration services for the proposed School Board of Broward County ("SBBC") at the existing Perry Middle School site. The scope of work will include, but is not limited to: the miscellaneous demolition of the existing recreation amenities; Constructing new tennis courts; Constructing new running track surrounding an open play / soccer field area; stabilizing and securing pre-engineered restroom buildings; constructing a roadway expansion; miscellaneous furnishings and site lightings and any additional Scope of Services set forth in Exhibit "A", Consultant's Proposal, attached hereto and made a part of hereof.

ARTICLE 3 **CONSULTANT AND CITY'S RELATIONSHIP**

3.1 The Consultant accepts the relationship of trust and confidence established between it and the City by this Agreement. The Consultant represents that it will furnish its best skill and judgment in performing the Consultant'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 industry practices.

3.2 By signing this Agreement, the Consultant accepts a fiduciary duty with the City and warrants and represents to the City that the Consultant:

- A.** Has all licenses and certifications required by applicable Law to perform the Consultant's Services and the Work;
- B.** Is experienced in all aspects of the Work required for projects similar to the Project;

- C.** Will act in the City's highest and best interest in performing the Consultant's Services and the Work; and
- D.** That no employee or affiliate of the Consultant, including all Subconsultants, Subcontractors and Suppliers (if any), 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.

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

ARTICLE 4 **TERM**

The term of this Agreement shall commence upon the last date of execution hereof and shall remain in effect until acceptance of the Goods and/or Services by the City, unless terminated earlier as provided herein.

ARTICLE 5 **CONSULTANT'S RESPONSIBILITIES**

5.1 Consultant agrees that it shall prepare and review plans and documents ensuring that such plans and documents conform with guidelines set forth in the City's Code and all other applicable Laws, ordinances and governmental rules, Regulations and orders, now or at any time during the term of this Agreement.

5.2 Consultant shall provide City with a detailed breakdown of its monthly bills, indicating each task performed and time allocated to each task.

5.3 Consultant agrees that all meetings relating to Work performed pursuant to this Agreement shall take place at a City facility and all site visits relating to such Work shall take place with a City representative present.

5.4 Consultant agrees that its Services are to be performed within the limits prescribed by the City and represents that the standard of care for all Services performed or furnished by Consultant under this Agreement, will be the care and skill ordinarily used by members of the Consultant's profession practicing under similar conditions.

5.5 Consultant is prepared to begin Work on the Project immediately upon receipt of a copy of this fully executed Agreement. Consultant, in consultation with the City, shall perform its Work in such a manner as to comply with an agreed upon Project Schedule, attached as Exhibit "B."

ARTICLE 6

CITY'S RESPONSIBILITIES

6.1 In exchange for the Services to be performed by Consultant, outlined herein and in Exhibit "A" of this Agreement, the City agrees to compensate the Consultant pursuant to the Scope of Basic Design Services in the amount of \$ [REDACTED]."

6.2 Compensation shall be invoiced by Consultant and paid by the City as follows: Consultant shall submit monthly invoices to the City for review. Each invoice shall indicate the original fee estimate for the Service provided the invoice date, the amount of the invoice and the estimated fees remaining. Payment for Services rendered by Consultant during the previous billing period shall be due and payable as of the date of the invoice, and shall be paid by the City no later than the 30th Day after the date of invoice, unless some other mutually agreeable period of required payment is established. All invoices are subject to the City's approval.

ARTICLE 7

INDEMNIFICATION

7.1 To the fullest extent permitted by Laws and Regulations, the Consultant shall indemnify, defend, and hold harmless the City, its officers, directors, agents, and employees, against and from all claims and liability arising under, by reason of or incidental to the Agreement or any performance of the Work, but not from the sole negligence or willful misconduct of the City. Such indemnification by the Consultant shall include but not be limited to the following:

A. Liability or claims arising directly or indirectly from or based on the violation of any Law, ordinance, Regulation, order, or decree, whether by the Consultant, its employees, or agents;

B. Liability or claims arising directly or indirectly from the use or manufacture by the Consultant, its employees or agents in the performance of this Agreement, of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article, or appliance, unless otherwise specifically stipulated in this Agreement;

C. Liability or claims arising directly or indirectly from the breach of any warranties, whether express or implied, made to the City or any other parties by the Consultant, its employees or agents;

D. Liabilities or claims arising directly or indirectly from the willful misconduct of the Consultant, its employees or agents; and

E. Liabilities or claims arising directly or indirectly from any breach of the obligations assumed herein by the Consultant.

7.2 The Consultant shall reimburse the City for any and all costs and expenses (including but not limited to fees and charges of Architects, attorneys, and other professionals and court costs) incurred by the City in enforcing the provisions of this indemnification.

7.3 This indemnification obligation shall not be limited in any way by any limitation of the amount or type of damages, compensation, or benefits payable by or for the Consultant or any Subcontractor (if any) or other person or organization under workers' compensation Laws, disability benefit acts, or other employee benefit acts, or insurance coverage.

7.4 The Consultant acknowledges receipt and the adequacy of the specific consideration in the amount of \$100.00, which sum was included in the total negotiated Proposal Price and is included in the Proposal Price to be paid by City to the Consultant, as consideration for the indemnification given by the Consultant to the City.

ARTICLE 8 **TERMINATION**

8.1 TERM OF AGREEMENT - This Agreement shall commence on the date that it is fully executed by all parties. Architect shall begin Work promptly after receipt of a fully executed copy of this Agreement from City and complete the Project within the completion timeframes established in the Project Schedule as set forth in Exhibit "B". With respect to such schedule, performance shall be timely under this Agreement, and time is of the essence. However, the completion timeframes shall be extended for periods of delay resulting from strikes, natural disasters, and similar circumstances over which the Architect has no control, if City approves such extensions in writing.

8.2 TERMINATION - For Convenience - This Agreement may be terminated by City for convenience upon 30 calendar Days' written notice to Architect. In the event of termination by City, Architect shall be paid for all authorized Services rendered to the date of such termination. The amount payable to Architect in the event of such termination shall be a pro rata amount determined on the basis of the amount and value of the Work performed prior to Architect's receipt of notice of termination for the applicable Work performed. In exchange for such payment, Architect shall turn over to City all work product which has been paid for by City. Under no circumstances shall City make payment for Services that have not been performed.

8.3 TERMINATION - For Cause - This Agreement may be terminated by either party upon five calendar Days' written notice to the other should such other party fail substantially to perform in accordance with its material terms through no fault of the party initiating the termination. In the event Architect abandons this Agreement or causes it to be terminated by City, Architect shall indemnify City against loss pertaining to this termination. In the event that City terminates the Agreement 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 Article 8.2 and the provisions of Article 8.2 shall apply.

ARTICLE 9

DEFAULT

9.1 An event of default shall mean a breach of this Agreement by Consultant. 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:

- A.** Consultant has not performed Services on a timely basis as set forth in the Project Schedule attached as, Exhibit "B";
- B.** Consultant has refused or failed, except in the case for which an extension of time is provided, to supply enough properly skilled staff personnel;
- C.** Consultant has failed to make prompt payment to Subconsultants or Suppliers (if any) for any Services;
- D.** Consultant 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;
- E.** Consultant has failed to obtain the approval of City where required by this Agreement;
- F.** Consultant has failed in the honoring of any warranties; or
- G.** Consultant 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.

9.2 In the event Consultant fails to comply with the provisions of this Agreement, City may declare Consultant in default, notify Consultant in writing, and give Consultant 15 calendar Days to cure the default. If Consultant fails to cure the default, compensation will only be due for any completed professional Services, minus any damages pursuant to Article 8.3. In the event payment has been made for such professional Services not completed, Consultant 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 8 above, and its right for damages under Article 9.3.

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

- A. Lost funding, and
- B. The difference between the cost associated with procuring services and the amount actually expended by City, including procurement and administrative costs.

9.4 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 10

DELIVERY OF MATERIALS

10.1 Upon receipt of notice of termination under Articles 8 or 9 above, Consultant shall immediately deliver to City all Materials held or used by Consultant in connection with the Services except those Materials, if any, owned by Consultant or supplied by Consultant at Consultant's own cost. If, at the time of termination further sums are due Consultant, Consultant 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.

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

ARTICLE 11

CONTRACT DOCUMENTS

11.1 The Contract Documents which comprise the entire agreement between City and Contractor concerning the Work consist of this Agreement, including amendments hereto and the following:

- All Change Orders (if any) which may be delivered or issued after the Effective Date of this Agreement;
- All Addenda;
- Contractor's Bid;
- Solicitation, General Provisions;
- General Conditions;
- Technical Specifications;

- Referenced Standard Specifications; and
- Drawings.

11.2 There are no Contract Documents other than those listed herein. The Contract Documents may only be amended by written Change Order (if any) as provided in the General Conditions. In the event of any conflict between this Agreement and any other of the Contract Documents, this Agreement and amendments shall govern first and then the other Contract Documents in the order listed above.

ARTICLE 12

OWNERSHIP OF DOCUMENTS

12.1 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.

12.2 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 13 **ASSIGNMENT**

No assignment by the Consultant 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 14 **APPLICABLE LAW; ACCIDENT PREVENTION AND REGULATIONS**

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

ARTICLE 15

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 Consultant that are related to Consultant's performance under this Agreement. Consultant 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 Consultant's facilities and perform such inspections as the City deems reasonably necessary to determine whether the Services required to be provided by Consultant under this Agreement conform to the terms hereof and/or the terms of this Agreement. Consultant 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 Laws, 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 Consultant support and/or documentation for any submission. Upon execution of the Agreement, the Consultant agrees that the City shall have unrestricted access during normal working hours to all Consultant's records relating to this Project, including hard copy as well as electronic records, for a period of three years after Final Completion.

ARTICLE 16

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 17

PUBLIC RECORDS

17.1 The Contractor shall comply with The Florida Public Records Act as follows:

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

17.1.2 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.

17.1.3 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.

17.1.4 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 Contractor shall be delivered by the Contractor to the City, at no cost to the City, within seven (7) days. All records stored electronically by the Contractor 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 Contractor shall destroy any and all duplicate public records that are exempt or confidential and exempt from public record disclosure requirements.

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

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

17.1.7 Ownership of Documents: Unless otherwise provided by law, any and all reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of the City. Any compensation due to the Contractor shall be withheld until all documents are received as provided herein.

ARTICLE 18

COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS

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

18.2 Consultant 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 Consultant 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.

18.3 The knowing employment by Consultant or its Subcontractors or Subconsultants 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.

ARTICLE 19 **INSURANCE**

19.1 Consultant shall furnish to the City of Miramar, 2300 Civic Center Place, Miramar, Florida 33025, before the commencement of Work, certificates of insurance and all required endorsements that indicate the insurance coverage has been obtained and meets the requirements set forth in the General Conditions and the following:

- Commercial General Liability:
\$1,000,000 each occurrence, \$2,000,000 general aggregate;
- 18 Professional Liability: \$1,000,000;
- Products and Complete Operations Aggregate: \$2,000,000;
- Personal Injury and Advertising Injury: \$1,000,000;
- Bodily Injury, \$1,000,000 each person, \$1,000,000 each occurrence;
- Property Damage, \$500,000 each occurrence or combined single limit of \$1,000,000 each occurrence;
- Automobile Liability: \$1,000,000 combined single limit per accident;
- Workers Compensation and Employers Liability: \$1,000,000 each accident, \$1,000,000 each employee for injury by disease, \$1,000,000 aggregate for injury by disease.

19.2 The City shall be named as the certificate holder and an Additional Insured on all certificates. All liability insurance policies shall have endorsements adding the City of Miramar as an Additional Insured, a waiver of subrogation in favor of the City and a separate endorsement for automobile liability. Insurance shall be maintained continuously during the term of the Contract up to the date of Final Completion, but the Consultant's liabilities under this Agreement shall not be deemed limited in any way to the insurance coverage required.

ARTICLE 20 **INDEPENDENT CONTRACTOR**

Consultant 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, Consultant 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. Consultant further understands that Florida Workers' Compensation benefits available to employees of the City are not available to Consultant, and agrees to provide workers' compensation insurance for any employee or agent of Consultant rendering Services to the City under this Agreement.

ARTICLE 21

NONDISCRIMINATION

Consultant represents and warrants to the City that Consultant does not and shall not engage in discriminatory practices and that there shall be no discrimination in connection with Consultant's performance under this Agreement on account of race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for delivery of Services. Consultant further covenants that no otherwise qualified individual shall, solely by reason of his/her race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for delivery of Services, be excluded from participation in, be denied any Services, or be subject to discrimination under any provision of the General Conditions.

ARTICLE 22

COSTS AND ATTORNEY FEES

If either City or Consultant 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.

SECTION 23

CONFLICT-OF-INTEREST

23.1 To avoid any conflicts of interest, or any appearance thereof, Consultant, for the term of this Agreement, agrees that it will not represent any private sector entities (including but not limited to developers, corporations, real estate investors, etc.) in Miramar, Florida, without notifying the City of the services to be performed. If after such notification the City reasonably determines that a material conflict exists, Consultant will not perform such conflicting Work. The conditions and requirements of this paragraph will also apply to any Subconsultants utilized by Consultant in completion of the Work tasks under this Agreement.

23.2 Furthermore, Consultant covenants that no person under its employ who presently exercises any functions or responsibilities on behalf of the City in connection with this Agreement has any personal financial interest, direct or indirect, with contractors or vendors providing professional services on projects assigned to

Consultant, except as fully disclosed and approved by the City. Consultant further covenants that, in the performance of this Agreement, no person having such conflicting interest shall be employed. Any such interest on the part of Consultant or its employees must be disclosed in writing to the City.

ARTICLE 24 **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 25 **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 26 **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 27 **NOTICES**

All notices or other communications required under this Agreement shall be in writing and shall be given by Electronic Mail Transmittal, hand-delivery, 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 CONSULTANT:

ATTN: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
Telephone: [REDACTED]
Fax: [REDACTED]
Email: [REDACTED]

TO THE CITY OF MIRAMAR:

ATTN: Vernon E. Hargray, City Manager
CITY OF MIRAMAR
2300 Civic Center Place
Miramar, Florida 33025
Telephone: (954) 602-3115
Fax: (954) 602-3672
Email: vhargray@miramarfl.gov

WITH A COPY TO:

City Attorney
Austin Pamies Norris Weeks Powell, PLLC
401 NW 7th Avenue
Fort Lauderdale, FL 33311
Telephone: (954) 768-9770
Email: miramarcityattorney@apnwplaw.com

ARTICLE 28
CITY'S OWN FORCES

28.1 The City reserves the right to perform 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 Contractor's responsibilities under this Agreement.

28.2 The City will have the right to inspect and conduct periodic inspections of the Work and/or Materials to determine compliance with the requirements of the Contract. Any Work and/or Materials rejected by the City for non-compliance shall be replaced and/or corrected at the Contractor's expense. Failure to reject Defective Work and/or Materials, whether from lack of discovery of such defect or for any other reason, will not relieve the Contractor 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 29
LIMITATION OF LIABILITY

29.1 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 Consultant herein, less any sums paid by the City. Consultant hereby expresses its willingness to enter into this Agreement with Consultant's recovery from the City for any damage action for breach of contract to be limited to a maximum fee paid to Consultant herein, less any sums paid by the City.

29.2 Accordingly, and notwithstanding any other term or condition of this Agreement, Consultant agrees that the City shall not be liable to Consultant for damages in an amount in excess of the fee paid to the Consultant 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 paragraph 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.

29.3 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 30 **NON-SOLICITATION**

Consultant 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 31 **THIRD PARTY BENEFICIARY**

It is specifically agreed between the City and Consultant 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 32 **WARRANTY AND GUARANTEE**

Architect warrants that its Services are to be performed within the limits prescribed by City and with the usual thoroughness and competence of Architect's profession. Architect shall be responsible for technically deficient designs, reports or studies due to errors and omissions directly related to the Services provided by Architect pursuant to this Agreement for four years after the date of acceptance of the Services by City. Architect shall, upon the request of City, promptly correct or replace all Defective Work due to errors or omissions directly related to the Services provided by Architect pursuant to this Agreement at no cost to the City.

ARTICLE 33
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 34
HEADINGS AND INTERPRETATION

Title and paragraph headings are for convenience only and are not a part of this Agreement. Consultant has been given an opportunity for counsel of its choice to review this Agreement. Accordingly, no party shall be deemed to have any benefit as the drafter of the document for interpretation purposes.

ARTICLE 35
SEVERABILITY

35.1 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.

35.2 City and Consultant 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 Contract Documents.

ARTICLE 36
REAFFIRMATION OF REPRESENTATIONS

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

ARTICLE 37
SCRUTINIZED COMPANIES

37.1 Contractor certifies that it and its subcontractors 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 Contractor or its subcontractors are found to have submitted a false certification; or if the Contractor, or its subcontractors are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement.

37.2 If this Agreement is for more than one million dollars, the Contractor certifies that it and its subcontractors 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 Contractor , its affiliates, or its subcontractors are found to have submitted a false certification; or if the Contractor, its affiliates, or its subcontractors 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.

37.3 The Contractor agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.

37.4 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 38 **CERTIFICATE OF COMPETENCY**

Contractor 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 Contractor to perform the Work. If a Subcontractor(s) or Subconsultant(s) is employed, an applicable certificate of competency or license issued to the Subcontractor(s) or Subconsultant(s) shall be submitted along with Contractor's certificate or license upon execution of this Agreement; provided, however, that the City may, at its sole option, upon written approval to Contractor, and in its best interest, allow Contractor to supply the certificate(s) to the City during the first week of Work or Services.

[REMAINDER INTENTIONALLY LEFT BLANK]

ARTICLE 39
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
Vernon E. Hargray

CONSULTANT/ARCHITECT:

By: _____

This ____ day of _____, 2020.

Date: _____

ATTEST:

Denise A. Gibbs, City Clerk

Corporate Seal

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

SECTION 4
PROPOSAL COVER SHEET – RFQ #20-02-09

PROPOSER'S NAME (Name of firm, entity, or organization): 	
FEDERAL EMPLOYER IDENTIFICATION NUMBER: 	
NAME AND TITLE OF PROPOSER'S AUTHORIZED CONTACT PERSON: 	
Name: _____	Title: _____
EMAIL ADDRESS: _____	
MAILING ADDRESS: 	
Street Address: _____	
City, State, Zip: _____	
TELEPHONE: (_____) _____	FAX: (_____) _____
PROPOSER'S ORGANIZATION STRUCTURE: _____ Corporation _____ Partnership _____ Proprietorship _____ Joint Venture _____ Other (explain): _____	
IF CORPORATION: Date Incorporated/Organized: _____ State of Incorporation/Organization: _____ States registered in as foreign Corporation: _____	
PROPOSER'S SERVICES OR BUSINESS ACTIVITIES OTHER THAN WHAT THIS SOLICITATION REQUESTS: 	
LIST NAMES OF PROPOSER'S SUBCONTRACTORS AND/OR SUBCONSULTANTS FOR THIS PROJECT: 	
PROPOSER'S AUTHORIZED SIGNATURE: The undersigned hereby certifies that this Proposal is submitted in response to this Solicitation. Signed by: _____ Date: _____ Print name: _____ Title: _____	

**FAILURE TO COMPLETE, SIGN AND RETURN THIS FORM
MAY DEEM YOUR PROPOSAL NON-RESPONSIVE**

SECTION 5
ADDENDA ACKNOWLEDGEMENT FORM

Addendum #

Date Received

PROPOSER:

(Company Name)

(Signature)

(Printed Name and Title)

**FAILURE TO COMPLETE, SIGN AND RETURN THIS FORM
MAY DEEM YOUR PROPOSAL NON-RESPONSIVE**

SECTION 6 PROPOSER'S INFORMATION FORM

All information supplied in connection with this form is subject to review and verification. Any and all determinations concerning this information will be used to determine eligibility for participation in the award. Inaccurate or incomplete answers may result in your Proposal being deemed "Non-Responsive."

- (1) How many years has your organization been in business under your present business name? _____ years
- (2) State of Florida business tax receipt type and number: _____
- (3) County (state county) business tax receipt type and number: _____
- (4) City business tax receipt license type and number: _____

PROPOSERS MUST INCLUDE A COPY OF EACH LICENSE LISTED WITH PROPOSAL

- (5) Describe experience providing services/commodities for similar (government) organizations:

- (6) Have you ever had a contract terminated (either as a prime contractor or sub-contractor) for failure to comply, breach, or default?

_____ yes _____ no

(IF YES, PLEASE ENCLOSE A DETAILED EXPLANATION ON SEPARATE SHEET)

SECTION 6
PROPOSER'S INFORMATION FORM (CONTINUED)

Please list five Government contract references:

Company Name: _____

Address: _____

City, State, & Zip Code: _____

Contact's Name & Phone #: _____

Company Name: _____

Address: _____

City, State, & Zip Code: _____

Contact's Name & Phone #: _____

Company Name : _____

Address: _____

City, State, & Zip Code: _____

Contact's Name & Phone #: _____

SECTION 6
PROPOSER'S INFORMATION FORM (CONTINUED)

Company Name: _____

Address: _____

City, State, & Zip Code: _____

Contact's Name & Phone #: _____

Company Name: _____

Address: _____

City, State, & Zip Code: _____

Contact's Name & Phone #: _____

**FAILURE TO COMPLETE AND RETURN THIS FORM
MAY DEEM YOUR PROPOSAL NON-RESPONSIVE**

SECTION 7
**PROPOSER'S DISCLOSURE OF SUBCONTRACTORS,
SUBCONSULTANTS, AND SUPPLIERS (IF APPLICABLE)**

Please list all Subcontractors, Subconsultants and Suppliers to be used in connection with performance of the Contract (use additional pages if necessary):

Company Name: _____

Address: _____

City, State, & Zip Code: _____

Company Name: _____

Address: _____

City, State, & Zip Code: _____

Company Name: _____

Address: _____

City, State, & Zip Code: _____

SECTION 7
**PROPOSER'S DISCLOSURE OF SUBCONTRACTORS,
SUBCONSULTANTS, AND SUPPLIERS(CONTINUED)**

Company Name: _____

Address: _____

City, State, & Zip Code: _____

Company Name: _____

Address: _____

City, State, & Zip Code: _____

Company Name: _____

Address: _____

City, State, & Zip Code: _____

**FAILURE TO COMPLETE AND RETURN THIS FORM
MAY DEEM YOUR PROPOSAL NON-RESPONSIVE**

SECTION 8

DRUG-FREE WORKPLACE AFFIDAVIT

FLORIDA STATE STATUTE 287.087

Identical Tie Bids: Preference shall be given to businesses with drug-free workplace programs. Whenever two or more bids which are equal with respect to price, quality, and service are received by the State or by any political subdivision for the procurement of commodities or contractual services, a bid received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process. Established procedures for processing tie bids will be followed if none of the tied vendors have a drug-free workplace program. In order to have a drug-free workplace program, a business shall:

- a) Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
- b) Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
 - 1) Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection (1).
 - 2) In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893, Florida Statutes, or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five days after such conviction.
 - 3) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.
 - 4) Make a good faith effort to continue to maintain a drug-free workplace through the implementation of this section.

SECTION 8
DRUG-FREE WORKPLACE AFFIDAVIT (CONTINUED)

FLORIDA STATE STATUTE 287.087

As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements.

Proposer's Signature

**FAILURE TO COMPLETE, SIGN AND RETURN THIS FORM
MAY DEEM YOUR PROPOSAL NON-RESPONSIVE**

**SECTION 9
ANTI-KICKBACK AFFIDAVIT**

STATE OF FLORIDA)
)
COUNTY OF BROWARD) ss:

I, the undersigned, hereby duly sworn, depose and say that no portion of the sum herein proposed, or compensation that may be received as a result of this Proposal, will be paid to any employees of the City of Miramar, its elected officials, and _____ or its design consultants, as a commission, kickback, reward or gift, directly or indirectly by me or any member of my firm or by an officer of the corporation.

By: _____

Title: _____

Sworn and subscribed before me this

_____ day of _____, 20____

Notary Public
State of Florida at Large

My commission expires:

**FAILURE TO COMPLETE, SIGN AND RETURN THIS FORM
MAY DEEM YOUR PROPOSAL NON-RESPONSIVE**

SECTION 10 NON-COLLUSIVE AFFIDAVIT

State of _____)
County of _____) ss:

_____, being first duly sworn, deposes and says that:

a) He/she is the _____,
(Owner, Partner, Officer, Representative or Agent) of
_____ the Proposer that has submitted the attached
Proposal;

b) He/she is fully informed respecting the preparation and contents of the attached Proposal and of all pertinent circumstances respecting such Proposal;

c) Such Proposal is genuine and is not collusive or a sham Proposal;

d) Neither the said Proposer nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, have in any way colluded, conspired, connived or agreed, directly or indirectly, with any other Proposer, firm, or person to submit a collusive or sham Proposal in connection with the Work for which the attached Proposal has been submitted; or to refrain from proposing in connection with such Work or have in any manner, directly or indirectly, sought by person to fix the price or prices to be negotiated or that to be negotiated by any other Proposer, or to fix any overhead, profit, or cost elements of the Proposal price to be negotiated or to be negotiated by any other Proposer, or to secure through any collusion, conspiracy, connivance, or unlawful agreement any advantage against (Recipient), or any person interested in the proposed Work;

e) The price or prices to be negotiated will be fair and proper and will not be tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the Proposer or any other of its agents, representatives, owners, employees or parties in interest, including this affiant.

**FAILURE TO COMPLETE, SIGN AND RETURN THIS FORM
MAY DEEM YOUR PROPOSAL NON-RESPONSIVE**

SECTION 10
NON-COLLUSIVE AFFIDAVIT (CONTINUED)

Signed, sealed and delivered
in the presence of:

Witness

By:_____

Witness

(Printed Name)

(Title)

**FAILURE TO COMPLETE, SIGN AND RETURN THIS FORM
MAY DEEM YOUR PROPOSAL NON-RESPONSIVE**

SECTION 10
NON-COLLUSIVE AFFIDAVIT (CONTINUED)

ACKNOWLEDGMENT

State of _____)
) ss:
County of _____)

BEFORE ME, the undersigned authority, _____
personally appeared to me and known by me _____ or produced identification _____
to be the person described herein and who executed the foregoing Affidavit and
acknowledged to and before me that _____ executed said
Affidavit for the purpose therein expressed.

WITNESS my hand and official seal this _____ day of _____, 20____.

Notary Public
State of Florida At Large

My commission expires:

**FAILURE TO COMPLETE, SIGN AND RETURN THIS FORM
MAY DEEM YOUR PROPOSAL NON-RESPONSIVE**

SECTION 11

NON-DISCRIMINATION AFFIDAVIT

I, the undersigned, hereby duly sworn, depose and say that the organization, business or entity represented herein shall not discriminate against any person in its operations, activities or delivery of Services under any agreement it enters into with the City of Miramar. The same shall affirmatively comply with all applicable provisions of federal, state and local equal employment Laws and shall not engage in or commit any discriminatory practice against any person based on race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for Service delivery.

By: _____

Title: _____

Sworn and subscribed before me this

_____ day of _____, 20____

Notary Public
State of Florida at Large

My commission expires:

**FAILURE TO COMPLETE, SIGN AND RETURN THIS FORM
MAY DEEM YOUR PROPOSAL NON-RESPONSIVE**

SECTION 12

BUSINESS/VENDOR PROFILE SURVEY

Name of Business: _____

Address: _____

Phone No.: _____

Email Address: _____

Contact Person (Regarding This Form): _____

Type of Business (check the appropriate type):

- ☐ **CONSTRUCTION SERVICES** - Firms involved in the process of building, altering, repairing, improving or demolishing any structure, building or real property.
- ☐ **ARCHITECTURE AND ENGINEERING (A&E) SERVICES** - Firms involved in architectural design, engineering services, inspections and environmental consulting (materials and soil testing) and surveying.
- ☐ **PROFESSIONAL SERVICES** - Includes those services that require special licensing, educational degrees, and unusually highly specialized expertise.
- ☐ **BUSINESS SERVICES** - Involves any services that are labor intensive and not a construction related or professional service.
- ☐ **COMMODITIES** - Includes all tangible personal property services, including equipment, leases of equipment, printing, food, building materials, office supplies.

Small Business Enterprise (SBE) or a County Business Enterprise (CBE), has a Broward County Business Tax Receipt, is located in, and doing Business in Broward County, and is certified by the Broward County Office of Economic Development and Small Business Development.

Business is claiming the CBE/SBE Preference: Yes _____, No _____

Please attach the Broward County Office of Economic Development and Small Business Development certification to this form.

Business is claiming the Miramar Local Business Preference: Yes _____, No _____

Please attach a copy of a current Miramar Business Tax Receipt to this form.

- ☐ Business is domiciled within City limits, complies with all City licensing requirements and is current on all taxes.
- ☐ Business is located outside of the City and employs a minimum of 10 full time equivalent ("FTE") City residents or City residents constitute 20 percent FTE of the company's local workforce (Broward and Miami-Dade Counties), whichever is larger.

SECTION 13

PUBLIC ENTITY CRIMES

SWORN STATEMENT PURSUANT TO SECTION §287.133(3)(a), FLORIDA
STATUTES, ON PUBLIC ENTITY CRIMES:

THIS FORM MUST BE SIGNED AND SWORN TO IN THE PRESENCE OF A
NOTARY PUBLIC OR OTHER OFFICIAL AUTHORIZED TO ADMINISTER OATHS.

1. This sworn statement is submitted to _____
by _____
for _____
whose business address is _____

and (if applicable) its Federal Employer Identification Number (FEIN) is _____

(If the entity has no FEIN, include the Social Security Number of the individual
signing this sworn statement:

2. I understand that a "public entity crime" as defined in Section §287.133(1)(g), Florida Statutes, means a violation of any state or federal Law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or of the United States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.
3. I understand that "convicted" or "conviction" as defined in Section §283.133(1)(b), Florida Statutes, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, non-jury trial, or entry of a plea of guilty or nolo contendere.
4. I understand that an "affiliate" as defined in Section §287.133(1)(a), Florida Statutes, means:
- a. A predecessor or successor of a person convicted of a public entity crime;
or
 - b. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a

controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.

5. I understand that a "person" as defined in Section §287.133(1)(e), Florida Statutes, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bids on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.
6. Based on information and belief, the statement which I have marked below is true in relation to the entity submitting this sworn statement (Indicate which statement applies).

☐ Neither the entity submitting this sworn statement, nor any of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, nor any affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

☐ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

☐ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989. However, there has been a subsequent proceeding before a Hearing Officer of the State of Florida, Division of Administrative Hearings and the Final Order entered by the Hearing Officer determined that it was not in the public interest to place the entity submitting this sworn statement on the convicted vendor list (attach a copy of the final order).

I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CONTRACTING OFFICER FOR THE PUBLIC ENTITY IDENTIFIED IN PARAGRAPH 1 ABOVE IS FOR THAT PUBLIC ENTITY ONLY AND, THAT THIS FORM IS VALID THROUGH DECEMBER 31 OF THE CALENDAR YEAR IN WHICH IT IS FILED. I ALSO UNDERSTAND THAT I AM REQUIRED TO INFORM THE PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN SECTION §287.017, FLORIDA STATUTES, FOR CATEGORY TWO OF ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.

DATED: _____

BY: _____
(Signature)

NAME: _____
(Print)

TITLE: _____

STATE OF FLORIDA)
) ss:
COUNTY OF BROWARD)

SWORN TO AND SUBSCRIBED before me this _____ day of _____,
20__, by _____, who is personally known to me or has
produced _____ as identification.

Notary Public
State of Florida at Large

My commission expires:

END OF DOCUMENT

**FAILURE TO COMPLETE, SIGN AND RETURN THIS FORM
MAY DEEM YOUR BID NON-RESPONSIVE**

SECTION 14

Form W-9 (Rev. January 2003) Department of the Treasury Internal Revenue Service	Request for Taxpayer Identification Number and Certification	Give form to the requester. Do not send to the IRS.
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Print or type
See Specific Instructions on page 2.

Name	
Business name, if different from above	
Check appropriate box: <input type="checkbox"/> Individual/Sole proprietor <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Other ▶	<input type="checkbox"/> Exempt from backup withholding
Address (number, street, and apt. or suite no.)	Requester's name and address (optional) City of Miramar 2300 Civic Center Place Miramar, FL 33025
City, state, and ZIP code	
List account number(s) here (optional)	

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see How to get a TIN on page 3.

Note: If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number
<div style="display: flex; justify-content: space-around;"> <div style="border-bottom: 1px solid black; width: 20px; height: 20px;"></div> <div style="border-bottom: 1px solid black; width: 20px; height: 20px;"></div> <div style="border-bottom: 1px solid black; width: 20px; height: 20px;"></div> <div style="border-bottom: 1px solid black; width: 20px; height: 20px;"></div> <div style="border-bottom: 1px solid black; width: 20px; height: 20px;"></div> <div style="border-bottom: 1px solid black; width: 20px; height: 20px;"></div> <div style="border-bottom: 1px solid black; width: 20px; height: 20px;"></div> <div style="border-bottom: 1px solid black; width: 20px; height: 20px;"></div> </div>
or
Employer identification number
<div style="display: flex; justify-content: space-around;"> <div style="border-bottom: 1px solid black; width: 20px; height: 20px;"></div> <div style="border-bottom: 1px solid black; width: 20px; height: 20px;"></div> <div style="border-bottom: 1px solid black; width: 20px; height: 20px;"></div> <div style="border-bottom: 1px solid black; width: 20px; height: 20px;"></div> <div style="border-bottom: 1px solid black; width: 20px; height: 20px;"></div> <div style="border-bottom: 1px solid black; width: 20px; height: 20px;"></div> <div style="border-bottom: 1px solid black; width: 20px; height: 20px;"></div> <div style="border-bottom: 1px solid black; width: 20px; height: 20px;"></div> </div>

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
- I am a U.S. person (including a U.S. resident alien).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. (See the instructions on page 4.)

Sign Here	Signature of U.S. person ▶	Date ▶
------------------	----------------------------	--------

Purpose of Form

A person who is required to file an information return with the IRS, must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

U.S. person. Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued).
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee.

Note: If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Foreign person. If you are a foreign person, use the appropriate Form W-8 (see Pub. 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

Nonresident alien who becomes a resident alien.

Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the recipient has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement that specifies the following five items:

- The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
- The treaty article addressing the income.
- The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
- The type and amount of income that qualifies for the exemption from tax.
- Sufficient facts to justify the exemption from tax under the terms of the treaty article.



SECTION 15
VENDOR PERFORMANCE EVALUATION
SUPPLIES and/or SERVICES
(Includes CONSTRUCTION/PROFESSIONAL SERVICES)

1. Use this form to report vendor performance (positive or negative) for deliveries of supplies/rendering of services, regardless of the purchasing method used (Purchasing Card, Purchase Order, City Contract, etc).
2. The person designated for accepting supplies/services is responsible for filling out this form (type or print). Only page 1 is required, if page 2 is not used. However, if any area on page 1 is marked "unsatisfactory", page 2 must also be filled out and submitted with page 1 (see page 2, Explanations/Comments, when marking "unsatisfactory"). Page 2 is NOT restricted to "unsatisfactory" comments. If you have something good you want on record, use page 2. Attach documents, if applicable.
3. City Contracts: Regardless of the purchasing method used, as a minimum this form **MUST** be completed and submitted not later than 2 weeks after completion/expiration of a City contract. Past performance is considered on future contracts.
4. Send **SIGNED** form to: **PROCUREMENT DEPARTMENT, 2300 Civic Center Place, Miramar, FL 33025 or fax to XXX-XXX-XXXX.**

VENDOR INFORMATION	COMPLETE <u>ALL</u> APPLICABLE INFORMATION
Company/ Vendor Name:	Contract Number No:
Mailing Address:	Description/ Title:
City, St, Zip Code:	Contract Term (Dates) From: To:
Representative Evaluated:	Purchase Order Number:
Telephone Number:	Task Order Number:
Fax Number:	Other Reference:

DEFINITIONS

OUTSTANDING – Vendor considerably exceeded minimum contractual requirements or performance expectations of the products/services; The vendor demonstrated the highest level of quality workmanship/professionalism in execution of contract.

EXCELLENT (Exc) - Vendor exceeded minimum contractual requirements or performance expectations of the products/services.

SATISFACTORY (Sat) - Vendor met minimum contractual requirements or performance expectations of the products/services.


UNSATISFACTORY (UnSat) - Vendor did **NOT** meet the minimum contractual requirements or performance expectations of the products and/or services; Performed below minimum requirements (see page 2, Explanations/Comments)

EVALUATIONS (Place "X" in appropriate box for each major area.)

Criteria (includes change orders/amendments)	Out- standing	Exc	Sat	Un- Sat	Not Apply
1. Supplies delivered/Work performed on schedule.					
2. Condition of delivered supplies (includes handling/packaging).					
3. Quality of deliveries/work performance.					
4. Adherence to specifications/statement of work.					
5. Resolved problems/customer complaints timely.					
6. Working relationship/interfaces with City staff/public sector (citizens).					
7. Service Call (On-Call) response time.					
8. Other (specify):					
9. Overall evaluation of compliance with contract requirements.					

EVALUATED BY

Signature:	Date of Evaluation:
Print Name:	Department:
Title:	Telephone No:

 City of Miramar Procurement Department		SECTION 15 VENDOR PERFORMANCE EVALUATION SUPPLIES and/or SERVICES (Includes CONSTRUCTION/PROFESSIONAL SERVICES)		Page 2 of ____
Company/ Vendor Name:		Contract Number and/or Other Reference:		
Contract Ref No.	EXPLANATIONS/COMMENTS 1. Do not submit page 2 <u>without</u> page 1. 2. <u>Be specific</u> (include paragraph and page numbers referenced in the applicable contract, purchase order, etc). Continue on separate sheet (enter company name and contract number or other reference)			
	Ref No.	ACTION TAKEN BY VENDOR (reply below or submit separate correspondence)		
NAME/TITLE OF VENDOR REPRESENTATIVE		SIGNATURE		DATE
FOR PROCUREMENT DEPARTMENT USE ONLY				
"Unsatisfactory" findings have been determined as VALID () NOT VALID (). Reasons:				
Signature:		Date:		
Name/Title:		Telephone No:		

SECTION 16

REFERENCE QUESTIONNAIRE

Reference for Contractor: _____
Agency Giving Reference: _____
Person Giving Reference: _____
Telephone: _____
E-Mail: _____
Name of Project Completed by Contractor: _____
What was the Dollar value of the Project: _____
What was the Completion Date of the Project: _____

Provide a reference for the above named firm by indicating below the level of satisfaction (Satisfactory or Unsatisfactory) with services provided to your agency.

Question	Rating				
	Excellent	Good	Fair	Poor	Unacceptable
Did the contractor complete the project on time, in accordance with specifications?					
Did the contractor submit excessive change orders? If yes, how many? _____	YES			NO	
How would you rate the firm's responsiveness on administrative and service issues?					
How would you rate the quality and experience of the firm's project manager and on-site personnel?					
Was this awarded under a competitive process?					
How would you rate the contractor's project management, including management of sub contractors?					
Would you use the contractor again?	YES			NO	
Overall, what would you rate their performance?					

The undersigned does hereby certify that the foregoing and subsequent statements are true and correct and are made independently, free from vendor interference/collusion.

Print Name: _____ Title: _____

Sign Name: _____ Date: _____

Additional Comments: _____

**FAILURE TO RETURN THREE (3) REFERENCES BY USING THIS FORM
WILL DEEM YOUR PROPOSAL "NON-RESPONSIVE"**

RECREATION LICENSE AGREEMENT

THIS RECREATION LICENSE AGREEMENT is made and entered into as of this 21st day of April, 2020, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

CITY OF MIRAMAR, FLORIDA
(hereinafter referred to as "City"),
a Florida municipal corporation
whose principal place of business is
2300 Civic Center Place, Miramar, Florida 33025

WHEREAS, SBBC, as the controlling body of the district schools of Broward County, Florida owns, operates and maintains various facilities and sites throughout the County, including elementary, middle, high schools, vocational sites, training facilities and equipment, and lands/sites in the City suitable for use by City in its municipal programs; and

WHEREAS, partnerships between municipalities and SBBC instill a sense of civic pride and responsibility in students that will last far beyond their educational experience; and

WHEREAS, municipalities and the SBBC may share resources to support their goals and objectives; and

WHEREAS, SBBC and the City (hereafter referred to as the "Parties") believe that such an arrangement will be of mutual benefit to the Parties and will fill a great need in that area of the community and that cooperation between the Parties will result in great benefit to the residents of the City; and

WHEREAS, it is the purpose and policy of the City to develop, operate, and maintain parks and community recreational facilities; and

WHEREAS, SBBC and the City desire to enter into this Recreation License Agreement (hereafter referred to as the "Agreement") for the purposes of allowing the City to make improvements on and utilize portions of SBBC owned land (Site No. 101.1 a/k/a Henry D. Perry Education Center) for recreational and parking purposes.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 **Recitals.** The Parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 **Term of Agreement.** Unless terminated earlier pursuant to Section 3.05 of this Agreement, the term of this Agreement shall commence upon the execution of the Agreement by the Parties and conclude on May 01, 2045.

2.02 **Licensed Premises.** SBBC does hereby license to the City an area or areas referred to herein as "Licensed Premises" and shown on the sketch attached hereto as **Exhibit A** and **Exhibit B** and made a part hereof. **Exhibit B** shows conceptually, components of proposed improvements that the City will construct on the Licensed Premises at the City's sole expense. The Licensed Premises shall include any City Improvements provided in this Agreement, excluding those not constructed on the Lease Premises.

2.03 **Uses Permitted.** The uses and purposes of the Licensed Premises will be for recreational use by the City's residents, and as needed by SBBC, in conformity with Paragraph 2.09 herein. The Licensed Premises are to be used strictly for recreational purposes and no advertising or food concessions, nor the licensing, leasing, or renting of same, shall be permitted by the City unless prior written consent of the SBBC Superintendent or designee is obtained. Consent shall not be unreasonably withheld.

2.04 **Parking.** The City residents may use the open access parking lot(s) located on the School site to park vehicles while using the Licensed Premises.

2.05 **Conflict of Uses.** The City's use of the Licensed Premises shall not conflict with SBBC'S use of the Licensed Premises in its public education program and shall comply with the applicable laws of the State of Florida.

2.06 **Improvements.** The location of any and all recreational improvements (hereafter referred to as the "Improvements") to be placed on the Licensed Premises, shall first be approved in writing by SBBC. The SBBC shall have the sole discretion to approve the location of any Improvements the City makes on the Licensed Premises. The SBBC's approval of the location of the City's Improvements shall not be unreasonably withheld. Any Improvements placed on said Licensed Premises without the prior written approval of SBBC shall be removed or relocated within ninety (90) calendar days of written demand by SBBC. However, the Parties may agree that any unauthorized Improvements should remain and amend this Agreement to include the use and responsibility of those Improvements. The City's Improvements must include a security fence and gates, including a key and or access code, to separate the SBBC school campus from the Licensed Premises. The key and or access code shall be provided to SBBC.

(a) The authority to grant this approval regarding the Improvements and the security fencing / gates in this Agreement is hereby delegated by the SBBC to the Executive Director, Capital Projects, Office of Facilities & Construction and the Chief Building Official. Subject to the provisions of the foregoing paragraph, the Parties further agree that City will prepare and submit plans to the Executive Director, Capital Projects, Office of Facilities & Construction (hereafter referred to as the "Executive Director") and the Chief Building Official for review and approval. Any plans must meet State of Florida Building Code Requirements, Florida Fire Protection Code, and State Requirements for Educational Facilities (hereafter referred to as the

"SREF"), as may be applicable, and any other requirements imposed by applicable law. The Executive Director, and the Chief Building Official shall have forty-five (45) calendar days from the date of receipt to review and comment. In the event the Executive Director and Chief Building Official fail to provide their review or comments within the forty-five (45) day period, the City's plans shall be deemed approved. All design documents shall be approved by the Executive Director and the Chief Building Official prior to submission to the Florida Department of Education, if required. City agrees to obtain all necessary permits, inspections, and approvals to obtain a Certificate of Occupancy from the School District. If necessary, City also agrees to contract with a contractor for the construction of the Improvements, security fencing, and gates.

(b) Before the commencement of the Improvements, City shall require the engaged contractor to furnish required insurance, surety payment, and performance bonds that guarantee completion of the Improvements, to include full payment for all suppliers, material men, laborers or subcontractors employed to complete the Improvements. City shall ensure that the contractor shall be required by contract to deliver a copy of said insurance and surety bonds to the City. Such insurance shall remain current throughout the construction of the Improvements. Such bonds shall remain in effect for one (1) year after completion of the Improvements. City shall ensure that the contractor will cause the correction of any defective or faulty work or materials that appear after the completion of the Improvements, security fencing, and gates within the warranty period of such work performed.

(c) City shall be solely responsible for all contractual obligations to the contractor engaged to construct the Improvements.

(d) The Parties acknowledge that there are six (6) portables on the Licensed Premises. The City shall demolish three (3) portables that run East-West across the Licensed Premises. City shall relocate the remaining three (3) portables to the existing bicycle rack location and install up to ten (10) additional parking spaces in front of the relocated portables.

(e) City shall make the following improvements on the Licensed Premises which may include:

1. Construct a minimum of four (4) to a maximum of six (6) new tennis courts;
2. Construct a new running track;
3. Construct a multi-purpose open field/play area;
4. Re-surface the existing outdoor basketball courts;
5. Install exercise station(s);
6. Install pre-engineered/pre-fabricated bathroom facility;
7. Install fencing, gates, and locks where necessary to separate the School site from the Licensed Premises; and
8. If Broward County Traffic Engineering Division provides approval, the City shall install a total of two (2) stop signs, at the north-west and south-east corners of SW 69th Avenue and SW 35th Street, with a delineated crosswalk, hashed to allow the adjacent Elementary School (Annabel C. Perry) students to safely gain pedestrian access to the Licensed Premises.

(f) City shall construct/install all Improvements cited herein at its sole expense.

(g) The City shall act as owner's representative in completing all permit applications and other documents related to the construction and project closeout of this project.

(h) City agrees to use its best efforts to complete all improvements within thirty-six (36) months from the effective date of this Agreement.

2.07 Maintenance.

(a) It shall be the City's responsibility to maintain and keep the Licensed Premises clean and sanitary. The City shall mow and as needed, trim the trees located on the Licensed Premises and maintain the vegetation to prevent the accumulation of weeds, tree debris, and other invasive vegetation. Upon failure of the City to comply with the provisions of this section, SBBC shall give written notice to the City of such failure to comply, by Certified Mail, Return Receipt Requested. If after a period of ten (10) calendar days from the City's receipt the notice, the City has failed to commence the deficiencies contained in the notice, SBBC shall have the right to enter upon the Licensed Premises and correct the deficiencies. The City shall pay for such costs within fifteen (15) calendar days after receipt of said billing by SBBC. Any billing for SBBC's trash, debris removal or mowing shall be on a per-cleaning or per-mowing basis and shall be due and paid by the City within fifteen (15) calendar days after receipt of said billing.

(b) Notwithstanding any of the provisions of the foregoing subsection, the Parties further agree that the City will clean the Licensed Premises after each City sponsored event and SBBC will be responsible to clean the Licensed Premises after each SBBC sponsored event. In the event that SBBC fails to maintain and clean the premises for its use of the Licensed Premises, the City shall have the right to clean the premises and charge SBBC for all cleanup costs. SBBC shall pay for such costs within fifteen (15) calendar days after receipt of said billing by the City.

(c) Except as set forth in (b) above, City shall be solely responsible for the routine upkeep and maintenance of the Licensed Premises and the improvements thereon, and shall solely bear all related costs regarding such upkeep and maintenance, including all repairs and replacement of equipment's and fixtures.

(d) The Parties agree that they shall be liable and responsible for any and all cleanup, damages, and injuries that may occur during the time the Licensed Premises is under their respective control.

(e) City will be solely responsible for striping the track and multi-purpose open field/play area for all sporting and recreational activities.

2.08 License, Lease, or Rental of Licensed Premises. The City may not license, lease or rent the Licensed Premises for the use by a third party without obtaining the prior written consent of the SBBC Superintendent or designee. Consent shall not be unreasonably withheld.

2.09 Hours of Operation. The Licensed Premises and any improvements thereto will be exclusively under the control of the SBBC during the hours school is in session and the hours of four (4) planned school events (hereafter referred to as the "school events").

The Principal or designee will provide the City with written notice of the dates and times for the school events at least fifteen (15) calendar days prior to each school event. The school events shall take priority over City's use of Licensed Premises. The Licensed Premises will be under the control of the City

during off-school hours from 5:00 pm until 10 pm during the school year and from 7:00 am to 10 pm during the weekends, SBBC Holidays, and SBBC scheduled summer months. If SBBC desires to use the Licensed Premises when the Licensed Premises is under the City's control, the School Principal or designee will complete the Notice of Facility Use Form, as shown in **Exhibit C** and submit it to the City's Parks and Recreation Director or designee for approval no less than fifteen (15) calendar days before the requested use. If the City desires to utilize the Licensed Premises when the Licensed Premises is under the control of SBBC, the City's Director of Parks and Recreation or designee will complete the Notice of Facility Use Form, as shown in **Exhibit C** and submit it to the School Principal or designee for approval no less than fifteen (15) calendar days before the requested use. The Parties acknowledged that there is a fence that is located between the School and the Licensed Premises. The fence shall remain locked until the effective date of this Agreement. Also, the City will properly secure the Licensed Premises each day between dusk and dawn.

2.10 Ownership of Improvements at License Expiration. The Improvement shall be the property of the SBBC at the termination of this Agreement. City shall have the right to remove all personal property, non-fixture items or removable (non-permanent) Improvements at the expiration or termination of this Agreement. In the event this Agreement is terminated by the SBBC prior to the end of the term, the Parties shall negotiate a payment amount the SBBC shall pay to the City for the Improvements.

2.11 Inspection of City's Records by SBBC. City shall establish and maintain books, records and documents (including electronic storage media) related to this Agreement. All of City's records, regardless of the form shall be open to inspection and subject to audit, inspection, examination, evaluation and/or reproduction, during normal working hours, by SBBC agent or its authorized representative. For the purpose of such audits, inspections, examinations, evaluations and/or reproductions, SBBC's agent or authorized representative shall have access to City's Records from the effective date of this Agreement, for the duration of the term of the Agreement, and until the later of five (5) years after the termination of this Agreement or five (5) years after the date of final payment by SBBC to City pursuant to this Agreement. SBBC's agent or its authorized representative shall provide City with reasonable advance notice (not to exceed two (2) weeks) of any intended audit, inspection, examination, evaluation and or reproduction. SBBC's agent or its authorized representative shall have access to the City's facilities and to any and all records related to the Agreement and shall be provided adequate and appropriate workspace in order to exercise the rights permitted under this section. City shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by the Florida Office of the Inspector General or by any other state or federal officials.

2.12 Notice. When any of the Parties' desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the Parties designate the following as the respective places for giving notice:

To SBBC: Superintendent of Schools
The School Board of Broward County, Florida
600 Southeast Third Avenue
Fort Lauderdale, Florida 33301

With a Copy to: Director, Facility Planning & Real Estate Department
The School Board of Broward County, Florida

600 Southeast Third Avenue
Fort Lauderdale, Florida 33301

To City: City Manager
City of Miramar, Florida
2300 Civic Center Place
Miramar, Florida 33025

With a Copy to: Director of Parks & Recreation
City of Miramar
2300 Civic Center Place
Miramar, Florida 33025

With a Copy to: City Attorneys for
City of Miramar
Austin Pamies Norris Weeks Powell, PLLC
401 NW 7th Avenue
Ft. Lauderdale, FL 33311

2.13 **Background Screening.** The City agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and all of its personnel who: (1) are permitted access to school grounds when students are present; (2) will have direct contact with students; (3) have access or control of school funds; (4) have successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of the City or its personnel providing any services under the conditions described in the previous sentence. The City shall bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to the City and its personnel. The Parties agree that failure of the City to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate immediately with no further responsibilities or duties to perform under this Agreement. To the extent permitted by law, the City agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting from City's failure to comply with the requirements of this Section or with Sections 1012.32 and 1012.465, Florida Statutes. Nothing herein shall be construed as a waiver by SBBC or the City of sovereign immunity or of any rights or limits to liability existing under Section 768.28, Florida Statutes.

2.14 **Public Records.** Any party contracting with SBBC is required to: (1) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement; (2) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law; (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; and (4) meet all requirements for retaining public records and transfer, at no cost to SBBC, all public records in that party's possession upon termination of its Agreement with SBBC and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with SBBC's information technology systems. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party

shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with applicable Florida law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

2.15 Student Records. Notwithstanding any provision to the contrary within this Agreement, any party contracting with SBBC under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes, FERPA, and any other state or federal law or regulation regarding the confidentiality of student information and records. The Parties agree, for themselves, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless SBBC and its officers and employees for any violation of this section, including, without limitation, defending SBBC, its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon SBBC, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon SBBC arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

2.16 Indemnification. The Parties agree to be fully responsible for any acts of negligence, by their employees' when acting within the scope of their employment and agree to be liable for any damages resulting therefrom. This section shall survive termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

2.17 Insurance. Upon execution of this Agreement, the Parties shall submit to each other, copies of their certificate(s) of insurance or self-insurance evidencing the required coverage.

2.18 Required Insurance Coverages. The Parties acknowledge without waiving their rights of sovereign immunity as provided by Section 768.28, Florida Statutes, that they are insured or self-insured for general liability under state law with coverage limits of \$200,000 per person and \$300,000 per occurrence, or such monetary wavier limits that may change and be set forth by the legislature.

(a) The Parties shall maintain General Liability Insurance, with limits of liability not less than \$1,000,000 Each Occurrence \$2,000,000 General Aggregate. The Parties shall procure and maintain at their own expense and keep in effect during the full term of the Agreement, a policy or policies of insurance or self-insurance under a Risk Management Program in accordance with Florida Statutes, Section 768.28 for General Liability.

(b) The Parties shall procure and maintain at their expense and keep in effect during the full term of the Agreement, insured or Self-insured Worker's Compensation Insurance with Florida statutory benefits in accordance with Chapter 440, Florida Statutes including Employer's Liability limits not less than \$100,000/\$100,000/\$500,000 (each accident/disease-each employee/disease-policy limit).

(c) Automobile Liability Insurance: The Parties shall maintain Automobile Liability Insurance covering all Owned, Non-Owned and Hired vehicles in an amount of not less than One Million Dollars (\$1,000,000) per occurrence Combined Single Limit for Bodily Injury and Property Damage.

(d) Self-insurance and/or insurance requirements shall not relieve or limit the liability of either party, except to the extent provided by, Section 768.28, Florida Statutes. The Parties reserve the right to require other insurance coverage that the Parties deem mutually necessary depending upon the risk of loss and exposure to liability, subject to each party's Commission or Board approval, if necessary.

(e) Violations of the terms of this section and its subparts shall constitute a material breach of the Agreement and the non-breaching party may, at its sole discretion, cancel the Agreement and all rights, title and interest shall thereupon cease and terminate.

(f) No activities under this Agreement shall commence until the required proof of self-insurance and/or certificates of insurance have been received and approved by the Risk Managers of each party.

2.19 **Environmentally Hazardous Material.** The City hereby acknowledges that SBBC prohibits at any time the storage of Environmentally Hazardous materials on SBBC's property. The City agrees not to store any Environmentally Hazardous materials on SBBC's property and understands that violation of this stipulation will result in SBBC's immediate termination of this Agreement and the City shall restore and return the property to the same condition that it was in on the date hereof, less any improvements.

2.20 **Security of Licensed Premises.** The City is solely responsible for any security needed during City sponsored events and/or activities on the Licensed Premises while the Licensed Premises are under the sole control of the City. The City will further secure separation from the School campus by locking campus gates before entering the Licensed Premises. If it is determined that any safety issues resulting during the time the Licensed Premises are under the City's control, the City will be liable for said issues. The City will secure all Licensed Premises when under City control by locking the Licensed Premises after hours of operation as stated in Section 2.09 herein.

2.21 **Equal Opportunity Provision.** The Parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the Parties' respective duties, responsibilities and obligations under this Agreement.

2.22 **Excess Funds.** Any party receiving funds paid by SBBC under this Agreement agrees to promptly notify SBBC of any funds erroneously received from SBBC upon the discovery of such erroneous payment or overpayment. Any such excess funds shall be refunded to SBBC.

2.23 **Incorporation by Reference.** Exhibit A, Exhibit B and Exhibit C attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference.

ARTICLE 3 – GENERAL CONDITIONS

3.01 **No Waiver of Sovereign Immunity.** Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

3.02 No Third Party Beneficiaries. The Parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. Neither of the Parties intend to directly or substantially benefit a third party by this Agreement. The Parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the Parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any matter arising out of any Agreement.

3.03 Independent Contractor. The Parties to this Agreement shall at all times be acting in the capacity of independent contractors and not as an officer, employee or agent of one another. Neither party nor its respective agents, employees, subcontractors or assignees shall represent to others that it has the authority to bind the other party unless specifically authorized in writing to do so. No right to SBBC retirement, leave benefits or any other benefits of SBBC employees shall exist as a result of the performance of any duties or responsibilities under this Agreement. SBBC shall not be responsible for social security, withholding taxes, and contributions to unemployment compensation funds or insurance for the other party or the other party's officers, employees, agents, subcontractors or assignees.

3.04 Default. The Parties agree that, in the event that either party is in default of its obligations under this Agreement, the non-defaulting party shall provide to the defaulting party (30) days written notice to cure the default. However, in the event said default cannot be cured within said thirty (30) day period and the defaulting party is diligently attempting in good faith to cure same, the time period shall be reasonably extended to allow the defaulting party additional cure time. Upon the occurrence of a default that is not cured during the applicable cure period, this Agreement may be terminated by the non-defaulting party upon thirty (30) days written notice. This remedy is not intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or future exercise thereof. Nothing in this section shall be construed to preclude termination pursuant to Section 3.05.

3.05 Termination.

(a) It is specifically agreed between the Parties hereto that at any time SBBC desires to terminate this Agreement or any designated portion of the Licensed Premises which SBBC determines is needed exclusively for school building purposes or for any other school purposes, it shall have the right to do so with or without cause. SBBC's determination to cancel this Agreement shall be conclusively binding upon the Parties. In the event SBBC so elects, the City shall be given ninety (90) days written notice prior thereto and in the event of cancellation, SBBC shall reimburse the City for the then remaining value of the City-installed Improvements amortized for the remaining term. In the event the Parties hereto cannot mutually agree on said value, same shall be appraised by three (3) appraisers; one selected by SBBC; one selected by the City; and the third appraiser selected by the two appraisers appointed

(b) In the event of such appraisal of the value, the average of the three (3) appraisers shall be the amount SBBC shall pay. It is further agreed that SBBC shall be obligated to pay the fee of the appraiser selected by SBBC; the City shall be obligated to pay the fee of the appraiser selected by the City; and the City and SBBC shall each pay fifty percent (50%) of the fee of the appraiser selected by the two aforementioned appraisers.

(c) The City shall likewise have the unqualified right of cancellation of this Agreement, in whole or as to any designated portion or area of the Licensed Premises upon ninety (90) days written notice of cancellation to SBBC. If the City shall properly exercise its option to cancel this Agreement, as to the whole or part of the Licensed Premises, the City shall have the right, subject to SBBC's purchase option described below to remove any and all such Improvements to the Licensed Premises as the City had placed thereupon, except that the City shall not remove sod, landscaping, sand or earth placed upon the Licensed Premises (except as incidental to removal of other fixtures and/or improvements) and the City shall, in the case of removal of Improvements, reestablish the normal grade of the Licensed Premises to the condition which the same was found upon the City's first entering the Licensed Premises hereunder. If, upon cancellation by the City SBBC wishes to purchase the Improvements, the City shall sell the same to SBBC at a mutually agreed upon price. However, if the City and SBBC cannot mutually agree upon a price for the Improvements then the appraisal method, above described in Section 3.05(b) hereof, shall be used to arrive at a binding price.

3.06 Compliance with Laws. The Parties shall comply with all applicable federal, state and local laws, SBBC policies, codes, rules and regulations in performing their duties, responsibilities and obligations pursuant to this Agreement.

3.07 Place of Performance. All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.08 Governing Law and Venue. This Agreement shall be construed by the laws of the State of Florida. Any controversy or claim arising out of this Agreement shall be submitted exclusively to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida or to the jurisdiction of the United States District Court for the Southern District of Florida.

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

3.10 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.

3.11 Assignment. Neither this Agreement nor any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party.

3.12 Captions. The captions, section designations, section numbers, article numbers, titles and headings appearing in this Agreement are inserted only as a matter of convenience, have no substantive meaning, and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way affect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.13 Severability. In the event that any one or more of the sections, paragraphs, sentences, clauses or provisions contained in this Agreement is held by a court of competent jurisdiction to be invalid,

illegal, unlawful, unenforceable or void in any respect, such shall not affect the remaining portions of this Agreement and the same shall remain in full force and effect as if such invalid, illegal, unlawful, unenforceable or void sections, paragraphs, sentences, clauses or provisions had never been included herein.

3.14 **Preparation of Agreement.** The Parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to herein express their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the Parties than the other.

3.15 **Amendments.** No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto. The City Manager has authority to amend agreement on behalf of the City.

3.16 **Waiver.** The Parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement unless the waiver is in writing and signed by the party waiving such provision. A written waiver shall only be effective as to the specific instance for which it is obtained and shall not be deemed a continuing or future waiver.

3.17 **Force Majeure.** Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense (hereinafter referred to as "Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.18 **Survival.** All representations and warranties made herein, indemnification obligations, obligations to reimburse SBBC, obligations to maintain and allow inspection and audit of records and property, obligations to maintain the confidentiality of records, reporting requirements, and obligations to return public funds shall survive the termination of this Agreement.

3.19 **Agreement Administration.** SBBC has delegated authority to the Superintendent of Schools or designee to take any actions necessary to implement and administer this Agreement.

3.20 **Counterparts and Multiple Originals.** This Agreement may be executed in multiple originals, and may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same Agreement.

3.21 **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.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

FOR SBBC



(Corporate Seal)

ATTEST:

A handwritten signature in dark ink, appearing to read "Robert W. Runcie", is written over a horizontal line.

Robert W. Runcie, Superintendent of Schools

THE SCHOOL BOARD OF BROWARD
COUNTY, FLORIDA

By: A handwritten signature in dark ink, appearing to read "Donna P. Korn", is written over a horizontal line.
Donna P. Korn, Chair

Approved as to form and legal content:

A handwritten signature in dark ink, appearing to read "M. Moroney", is written over a horizontal line.
Office of the General Counsel

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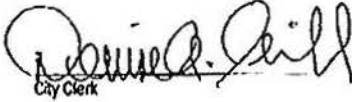
FOR CITY

(Corporate Seal)

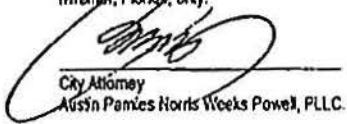
City of Miramar, Florida

Vernon E. Hargray, City Manager

ATTEST:


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 Paxton Norris Weeks Powell, PLLC.

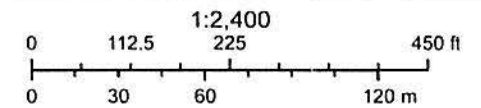
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EXHIBIT A



LEGEND:

 SBBC owned License Premises



LIST OF PROPOSED COMPONENTS

- Proposed Acquisition of
School Board Property
- EXERCISE STATIONS
- RELOCATED PORTABLES
- RELOCATED TENNIS
COURTS
- MULTI-PURPOSE
OPEN-FIELD/PLAY AREA
- TRACK
- RE-SURFACED
BASKETBALL COURTS
- EXISTING PARKING LOT
(TO REMAIN)

SCHOOL BOARD PROPERTY LINE

EXHIBIT "C"

**NOTICE OF FACILITY USE FORM FOR RECREATION LICENSE AGREEMENT BETWEEN
THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA AND DESIGNATED
LOCAL GOVERNMENTAL AGENCY**

Name of Local Government

Date Filed

Location

Type of Activity

Facility

Date(s) Needed

Time(s) Needed

CHARGES (IF APPLICABLE)

Service/Item

Fee

Total Fee(s) Due

NOTE: Please list the Service/Item on additional blank page(s) if you need space for additional information

CONTACTS/AUTHORIZED SIGNATURE

For School: Principal

Name

Title

Date

Signature:



Approve



Disapprove

**For Local Government: Parks and Recreation Director or
Equivalent Position**

Name

Title

Date

Signature:



Approve



Disapprove

RATIONALE FOR DISAPPROVAL