



**AGREEMENT BETWEEN BROWARD COUNTY AND NEW MILLENNIUM ENGINEERING, INC.
FOR CONSULTANT SERVICES FOR
CONSTRUCTION ENGINEERING AND INSPECTION (CEI) SERVICES FOR PEMBROKE ROAD FROM
DYKES ROAD TO EAST OF SILVER SHORES BLVD.
(RFP/RLI # R2114080P1)**

This is an Agreement ("Agreement"), made and entered into by and between Broward County, a political subdivision of the State of Florida ("County") and New Millennium Engineering, Inc., a Florida corporation ("Consultant") (collectively referred to as the "Parties").

WHEREAS, County issued RFP No. R2114080P1 for Construction Engineering and Inspection (CEI) professional engineering and technical support services related to the widening and reconstruction of Pembroke Road from Dykes Road to East of Silver Shores Blvd; and

WHEREAS, Consultant represents that it is experienced in providing CEI professional engineering and technical support services related to roadway widening and reconstruction of projects; and

WHEREAS, County wishes to engage Consultant to provide CEI professional engineering and technical support services related to the widening and reconstruction of Pembroke Road from Dykes Road to East of Silver Shores Blvd; and

WHEREAS, negotiations pertaining to these services were undertaken between County and Consultant, and this Agreement incorporates the results of such negotiations; and

IN CONSIDERATION of the mutual terms, conditions, promises, covenants and payments hereinafter set forth, the Parties agree as follows:

ARTICLE 1. DEFINITIONS AND IDENTIFICATIONS

The following definitions and identifications set forth below apply unless the context in which the word or phrase is used requires a different definition:

1.1 **Board:** The Board of County Commissioners of Broward County, Florida, which is the governing body of the Broward County government created by the Broward County Charter.

1.2 **Consultant:** The architect or engineer selected to perform the services pursuant to this Agreement.

1.3 **Contract Administrator:** The Director of Highway Construction and Engineering Division, or Assistant Director of Highway Construction and Engineering Division, who is the representative of County concerning the Project. In the administration of this Agreement, as contrasted with matters of policy, all Parties may rely upon instructions or determinations made by the Contract

Administrator; provided, however, that such instructions and determinations do not change the Scope of Services.

1.4 **Contractor**: The person, firm, corporation or other entity who enters into an agreement with County to perform the construction work for the Project.

1.5 **County Administrator**: The administrative head of County pursuant to Sections 3.02 and 3.03 of the Broward County Charter.

1.6 **County Attorney**: The chief legal counsel for County who directs and supervises the Office of the County Attorney pursuant to Section 2.10 of the Broward County Charter.

1.7 **County Business Enterprise or "CBE"**: A small business located in Broward County, Florida, which meets the criteria and eligibility requirements of Broward County's CBE Program and must be certified by Broward County's Office of Economic and Small Business Development.

1.8 **Notice To Proceed**: A written authorization to proceed with the Project, phase, or task thereof, issued by the Contract Administrator.

1.9 **Project**: The widening and reconstruction of Pembroke Road from Dykes Road to East of Silver Shores Blvd.

1.10 **Subconsultant**: A firm, partnership, corporation, independent contractor (including 1099 individuals), or combination thereof providing services to County through Consultant for all or any portion of the services under this Agreement.

ARTICLE 2. PREAMBLE

In order to establish the background, context, and frame of reference for this Agreement and to generally express the objectives and intentions of the respective Parties hereto, the following statements, representations, and explanations shall be accepted as predicates for the undertakings and commitments included within the provisions which follow and may be relied upon by the Parties as essential elements of the mutual considerations upon which this Agreement is based.

2.1 County has budgeted funds for the Project. This Project is funded with City of Miramar, City of Pembroke Pines and State of Florida Department of Transportation ("FDOT") County Incentive Grant Program ("CIGP") funding.

2.2 County has met the requirements of Section 287.055, Florida Statutes, the Consultants' Competitive Negotiation Act, and has selected Consultant to perform the services hereunder.

2.3 Negotiations pertaining to the services to be performed by Consultant were undertaken with Consultant, and this Agreement incorporates the results of such negotiations.

ARTICLE 3. SCOPE OF SERVICES

3.1 Consultant's services shall consist of the phases set forth in Exhibit A, attached hereto and made a part hereof, and shall include civil, structural, mechanical, and electrical engineering, architectural services, and other professional design services, as applicable for the Project. Consultant shall provide all services as set forth in Exhibit A including all necessary, incidental, and related activities and services required by the Scope of Services and contemplated in Consultant's level of effort.

3.2 The Scope of Services does not delineate every detail and minor work task required to be performed by Consultant to complete the Project. If, during the course of the performance of the services included in this Agreement, Consultant determines that work should be performed to complete the Project which is in Consultant's opinion outside the level of effort originally anticipated, whether or not the Scope of Services identifies the work items, Consultant shall notify Contract Administrator in writing in a timely manner before proceeding with the work. If Consultant proceeds with said work without notifying the Contract Administrator, said work shall be deemed to be within the original level of effort, whether or not specifically addressed in the Scope of Services. Notice to Contract Administrator does not constitute authorization or approval by County to Consultant to perform the work. Performance of work by Consultant outside the originally anticipated level of effort without prior written County approval is at Consultant's sole risk.

3.3 Exhibit A is for the first portion of services related to the Project and that additional negotiations will be required for subsequent phases or for additional services except as otherwise provided herein. County and Consultant may negotiate additional scopes of services, compensation, time of performance, and other related matters for future phases of Project. If County and Consultant cannot contractually agree, County shall have the right to immediately terminate negotiations at no cost to County and procure services for future Project phases from another source.

3.4 Consultant shall pay its Subconsultants and suppliers providing services under this Agreement within fifteen (15) days following receipt of payment from County for such subcontracted work or supplies. Consultant agrees that if it withholds an amount as retainage from a Subconsultant or supplier, it will release such retainage and pay same within fifteen (15) days following receipt of payment of retained amounts from County. The Contract Administrator may, at its option, increase allowable retainage or withhold progress payments unless and until Consultant demonstrates timely payments of sums due to all its Subconsultants and suppliers.

ARTICLE 4. TIME FOR PERFORMANCE; CONTRACTOR DAMAGES; LIQUIDATED DAMAGES

4.1 Consultant shall perform the services described in Exhibit A within the time periods specified in the Project Schedule included in Exhibit A; said time periods shall commence from

the date of the Notice to Proceed for such services.

4.2 Prior to beginning the performance of any services under this Agreement, Consultant must receive a Notice to Proceed. Consultant must receive a Notice to Proceed from the Contract Administrator prior to beginning the performance of services in any subsequent phases of this Agreement. Prior to granting approval for Consultant to proceed to a subsequent phase, the Contract Administrator may, at his or her sole option, require Consultant to submit the itemized deliverables and documents identified in Exhibit A for the Contract Administrator's review.

4.3 In the event Consultant is unable to complete the above services because of delays resulting from untimely review by County or other governmental authorities having jurisdiction over the Project, and such delays are not the fault of Consultant, or because of delays which were caused by factors outside the control of Consultant, County shall grant a reasonable extension of time for completion of the services and shall provide reasonable compensation, if appropriate. It shall be the responsibility of Consultant to notify the Contract Administrator promptly in writing whenever a delay in approval by a governmental agency is anticipated or experienced, and to inform the Contract Administrator of all facts and details related to the delay.

4.4 In the event Contractor fails to substantially complete the Project on or before the substantial completion date specified in its agreement with County or if Contractor is granted an extension of time beyond said substantial completion date, and Consultant's services are extended beyond the substantial completion date, through no fault of Consultant, Consultant shall be compensated in accordance with Article 5 for all services rendered by Consultant beyond the substantial completion date.

4.5 In the event Contractor fails to substantially complete the Project on or before the substantial completion date specified in its agreement with County, and the failure to substantially complete is caused in whole or in part by Consultant, then Consultant shall pay to County its proportional share of any claim or damages to Contractor arising out of the delay. By reference hereto, the provisions for the computation of delay costs/damages and any amounts included therein, whether direct or indirect, in the agreement between the Contractor and County are incorporated herein. This provision shall not affect the rights and obligations of either party as set forth in Section 10.8, Indemnification of County.

4.6 In the event services are scheduled to end due to the expiration of this Agreement, Consultant agrees that it shall continue service upon the request of the Contract Administrator. The extension period shall not extend for greater than three months beyond the term of this Agreement. Consultant shall be compensated for the service at the rate in effect when the extension is invoked by County upon the same terms and conditions as contained in this Agreement as amended. The Purchasing Director shall notify Consultant of an extension authorized herein by written notice delivered prior to the end of the term of this Agreement.

ARTICLE 5. COMPENSATION AND METHOD OF PAYMENT

5.1 Amount and Method of Compensation

5.1.1 Maximum Amount Not-To-Exceed Compensation. Compensation to Consultant for the performance of Basic Services identified in Exhibit A as payable on a "Maximum Amount Not-To-Exceed" basis, and as otherwise required by this Agreement, shall be based upon the Salary Costs as described in Section 5.2 up to a maximum amount not-to-exceed of \$ 694,991.26. Consultant shall perform all services designated as Maximum Amount Not-To-Exceed set forth herein for total compensation in the amount of or less than that stated above.

5.1.2 Intentionally Left Blank.

5.1.3 Optional Services. County has established an amount of \$ 60,000 for potential Optional Services which may be utilized pursuant to Article 6. Unused amounts of these Optional Services monies shall be retained by County. A Work Authorization for Optional Services shall specify the method of payment, Maximum Amount Not-To-Exceed, Lump Sum, or combination thereof, applicable to that Work Authorization.

5.1.4 Reimbursable Expenses. County has established two methods for quantifying reimbursable expenses with an aggregate maximum amount not-to-exceed of \$85,902.78 which may be utilized pursuant to Section 5.3. Unused amounts of those monies established for reimbursable expenses pursuant to 5.3.1 shall be retained by County.

5.1.5 Salary Costs. The maximum billing rates payable by County for each of Consultant's employee categories are shown on Exhibit B and are further described in Section 5.2.

If, for services designated as payable on a Maximum Amount Not-To-Exceed, Consultant has "lump sum" agreements with any Subconsultant(s), then Consultant shall bill all "lump sum" Subconsultant fees with no "markup." Likewise, Consultant shall bill, with no mark-up, all maximum not to exceed Subconsultant fees using the employee categories for Salary Costs on Exhibit B as defined in Section 5.2 and Reimbursables defined in Section 5.3. All Subconsultant fees shall be billed in the actual amount paid by Consultant.

5.1.6 Intentionally Left Blank.

5.1.7 The dollar limitation set forth in Sections 5.1 is a limitation upon, and describes the maximum extent of, County's obligation to Consultant, but does not constitute a limitation, of any sort, upon Consultant's obligation to incur such expenses in the performance of services hereunder.

5.2 Salary Costs. The term Salary Costs as used herein shall mean the hourly rate actually paid to all personnel engaged directly on the Project, as adjusted by an overall multiplier which consists of the following: 1) a fringe benefits factor; 2) an overhead factor; and 3) an operating margin. Said Salary Costs are to be used only for time directly attributable to the Project. The fringe benefit and overhead rates shall be Consultant's most recent and actual rates determined in accordance with Federal Acquisition Regulations ("FAR") guidelines and audited by an independent Certified Public Accountant. For the purposes of this Agreement, the rates must be audited for fiscal periods of Consultant within eighteen months preceding the execution date of this Agreement. These rates shall remain in effect for the term of this Agreement except as provided for in this Section 5.2 inclusive of the subsections below.

5.2.1 Consultant shall require all of its Subconsultants to comply with the requirements of Section 5.2.

5.2.2 Salary Costs for Consultant and Subconsultants as shown in Exhibit B are the Maximum Billing Rates which are provisional, subject to audit of actual costs, and if the audit discloses that the actual costs are less than the costs set forth on Exhibit B for Consultant or any Subconsultant, Consultant shall reimburse County based upon the actual costs determined by the audit.

5.2.3 Unless otherwise noted, the Salary Costs stated above are based upon Consultant's "home office" rates. Should it become appropriate during the course of this Agreement that a "field office" rate be applied, then it is incumbent upon Consultant to submit a supplemental Exhibit B reflective of such rates for approval by Contract Administrator and invoice County accordingly.

5.2.4 The total hours payable by County for any "exempt" or "non-exempt" personnel shall not exceed forty (40) hours per employee in any week. In the event the work requires Consultant's or Subconsultant's personnel to work in excess of 40 hours per week, any additional hours must be authorized in advance, in writing, by the Contract Administrator. If approved, Salary Costs for additional hours of service provided by nonexempt (hourly) employees or exempt (salaried) employees shall be invoiced to County at no more than one and one-half of the employee's hourly rate and in a manner consistent with Consultant's or Subconsultant's applicable certified FAR audit and all other provisions of Section 5.2. In the event a "Safe Harbor" rate is elected for use by Consultant or Subconsultant, then the additional hours are payable at no more than the employee's regular rate.

5.2.5 Consultant and any of its Subconsultants may alternatively use a "Safe Harbor" combined fringe benefit and overhead rate of 110% in lieu of providing fringe benefit and overhead cost factors certified by an independent Certified Public Accountant in accordance with the Federal Acquisition Regulation ("FAR") guidelines. The Safe Harbor rate, once elected, shall remain in place for the entire term of this Agreement, and be applicable for use as "home" and "field" fringe benefit and overhead rates, if applicable,

and shall not be subject to audit under this Agreement. All other provisions of Section 5.2 remain in place.

5.3 Reimbursables. Consultant shall use the Direct Expense Rate certified by an independent Certified Public Accountant in accordance with the Federal Acquisition Regulation ("FAR") guidelines. Reimbursement of any Direct Expense Rate under this Agreement, shall be in accordance with Exhibit B-1. The Direct Expense Rate shall remain in place for the entire term of this Agreement. If any Subconsultants elect to use the Direct Expense Rate, it shall be in accordance with the foregoing.

5.3.1 Reimbursement of any testing, aerial photography or other expenses approved by the Contract Administrator, directly attributable to this Project, and permitted under this Agreement, shall be in accordance with Exhibit B-2. County shall not be liable for any reimbursable expenses that have not been approved in advance and in writing, by the Contract Administrator. Reimbursable expenses for Subconsultants shall be in accordance with foregoing.

5.4 Method of Billing

5.4.1 For Maximum Amount Not-To-Exceed Compensation under Section 5.1.1. Consultant shall submit billings which are identified by the specific project number on a monthly basis in a timely manner for all Salary Costs and Reimbursables attributable to the Project. These billings shall identify the nature of the work performed, the total hours of work performed, and the employee category of the individuals performing same. Billings shall itemize and summarize Reimbursables by category and identify same as to the personnel incurring the expense and the nature of the work with which such expense was associated. Where prior written approval by Contract Administrator is required for Reimbursables, a copy of said approval shall accompany the billing for such reimbursable. Billings shall also indicate the cumulative amount of CBE participation to date. The statement shall show a summary of Salary Costs and Reimbursables with accrual of the total and credits for portions paid previously. External Reimbursables and Subconsultant fees must be documented by copies of invoices or receipts which describe the nature of the expenses and contain a project number or other identifier which clearly indicates the expense is identifiable to the Project. Subsequent addition of the identifier to the invoice or receipt by Consultant is not acceptable except for meals and travel expenses. Internal expenses must be documented by appropriate Consultant's cost accounting forms with a summary of charges by category. When requested, Consultant shall provide backup for past and current invoices that records hours and Salary Costs by employee category, Reimbursables by category, and Subconsultant fees on a task basis, so that total hours and costs by task may be determined.

5.4.2 Intentionally Left Blank.

5.5 Method of Payment

5.5.1 County shall pay Consultant within thirty (30) calendar days from receipt of Consultant's proper statement, as defined by County's Prompt Payment Ordinance, ninety percent (90%) of the total shown to be due on such statement. When the services to be performed on each phase of the Project are fifty percent (50%) complete and upon written request by Consultant and written approval by the Contract Administrator that the Project is progressing in a satisfactory manner, the Contract Administrator, in his or her sole discretion, may authorize that subsequent payments for each phase may be increased to ninety-five percent (95%) of the total shown to be due on subsequent statements. No amount shall be withheld from payments for Reimbursables or for services performed during the construction phase.

5.5.2 Upon Consultant's satisfactory completion of each phase and after the Contract Administrator's review and approval, County shall remit to Consultant that ten percent (10%) or five percent (5%) portion of the amounts previously withheld. Final payment for the Project must be approved by the Director of the Broward County Purchasing Division.

5.5.3 Payment will be made to Consultant at:

New Millennium Engineering, Inc.,
4868 SW 72nd Avenue
Miami, Florida 33155

ARTICLE 6. OPTIONAL AND ADDITIONAL SERVICES; CHANGES IN SCOPE OF SERVICES

6.1 County or Consultant may request changes that would increase, decrease, or otherwise modify the Scope of Services to be provided under this Agreement. Such changes must be made in accordance with the provisions of the Broward County Procurement Code and must be contained in a written amendment, executed by the Parties hereto, with the same formality and of equal dignity herewith, prior to any deviation from the terms of this Agreement, including the initiation of any Additional Services.

6.2 Costs of Additional Services identified by the Contract Administrator during the life of this Agreement and as contained in a written amendment will be compensated on an hourly basis, or an agreed upon lump sum, or as a reimbursable as provided in Article 5. Additional Services authorized by the Contract Administrator shall include a required completion date for Consultant's performance of those additional services.

6.3 In the event a dispute between the Contract Administrator and Consultant arises over whether requested services constitute additional services and such dispute cannot be resolved by the Contract Administrator and Consultant, such dispute shall be promptly presented to

County's Director of Purchasing for resolution. The Director's decision shall be final and binding on the Parties. The resolution shall be set forth in a written document in accordance with Section 6.1 above, if applicable. During the pendency of any dispute, Consultant shall promptly perform the disputed services.

6.4 Consultant may, at the Contract Administrator's discretion, be authorized to perform Optional Services as delineated in Exhibit A, Scope of Services, up to the maximum fee amount established for Optional Services under Article 5.1.3. Any Optional Services to be performed by Consultant pursuant to the terms of this Agreement shall first be authorized by the Contract Administrator in writing by a "Work Authorization" in accordance with this article. Prior to issuing a Work Authorization, the Contract Administrator must provide the Office of the County Attorney with the written description of the work to be undertaken as required by Section 6.4.4.1 and must obtain a written concurrence from the Office of the County Attorney that the work proposed to be performed pursuant to the Work Authorization is within the scope of services of this Agreement.

6.4.1 Before any Optional Service is commenced pursuant to a Work Authorization, Consultant shall supply the Contract Administrator with a written estimate for all charges expected to be incurred for such Optional Service, which estimate shall be reviewed by Contract Administrator and a final amount for Consultant's compensation shall be approved as follows:

6.4.1.1 Work Authorizations that will cost County not more than Thirty Thousand Dollars (\$30,000.00) in the aggregate may be signed by Contract Administrator and Consultant.

6.4.1.2 Work Authorizations that will cost County not more than One Hundred Thousand Dollars (\$100,000.00) in the aggregate may be signed by County's Purchasing Director and Consultant.

6.4.1.3 Any Work Authorization above County's Purchasing Director's authority in subsection 6.4.1.2 must be approved by the Board.

6.4.2 Subsequent to Contract Administrator issuing a Work Authorization pursuant to this article, Contract Administrator will issue a Notice to Proceed ("NTP") for those authorized Optional Services. Consultant shall not commence such work until after receipt of the Contract Administrator's NTP.

6.4.3 Any modifications to a Work Authorization shall require an amended Work Authorization approved by the Contract Administrator, Purchasing Director, or Board in accordance with the dollar limitations set forth above.

6.4.4 All Work Authorizations shall be in the appropriate form (Exhibit E) and shall contain, as a minimum, the following information and requirements:

6.4.4.1 A description of the work to be undertaken (which description must specify in detail the individual tasks and other activities to be performed by Consultant), a reference to this Agreement pursuant to which the work to be undertaken is authorized, and a statement of the method of compensation.

6.4.4.2 A budget establishing the amount of compensation, which amount shall constitute a guaranteed maximum and shall not be exceeded unless prior written approval of County is obtained. In the event County does not approve an increase in the guaranteed maximum amount, and the need for such action is not the fault of Consultant, the authorization shall be terminated, and Consultant shall be paid in full for all work completed to that point, but shall in no case exceed the guaranteed maximum amount. The information contained in the budget shall be in sufficient detail so as to identify the various elements of costs.

6.4.4.3 A time established for completion of the work or services undertaken by Consultant or for the submission to County of documents, reports, and other information pursuant to this Agreement.

6.4.4.4 Any other additional instructions or provision relating to the work authorized pursuant to this Agreement.

6.4.4.5 Work Authorizations shall be dated, serially numbered, and signed.

6.5 Each proposed contract modification request that, by itself or aggregated with previous modification requests, increases the contract value by ten percent (10%) or more of the initial contract value shall be reviewed by County for opportunities to include or increase CBE participation. Consultant shall demonstrate good faith efforts to include CBE participation in change order work and shall report such efforts to the Office of Economic and Small Business Development.

ARTICLE 7. COUNTY'S RESPONSIBILITIES

7.1 County shall assist Consultant by placing at Consultant's disposal all information County has available pertinent to the Project including previous reports and any other data relative to design or construction of the Project.

7.2 County shall arrange for access to, and make all provisions for, Consultant to enter upon public and private property as required for Consultant to perform its services.

7.3 County shall review the itemized deliverables/documents identified in Exhibit A of Consultant and respond in writing with any comment within the time set forth on the approved Project Schedule.

7.4 County shall give prompt written notice to Consultant whenever County observes or otherwise becomes aware of any development that affects the scope or timing of Consultant's services or any defect in the work of the Contractor.

ARTICLE 8. INSURANCE

8.1 For purposes of this article, the term "County" shall include Broward County and its members, officials, officers, and employees.

8.2 Consultant shall maintain, at its sole expense and at all times during the term of this Agreement (unless a different time period is otherwise stated herein), at least the minimum limits of insurance coverage designated in Exhibit D (inclusive of any amount provided by an umbrella or excess policy) in accordance with the terms and conditions stated in this article. All required insurance shall apply on a primary basis, and shall not require contribution from, any other insurance or self-insurance maintained by County. Any insurance, or self-insurance, maintained by County shall be in excess of, and shall not contribute with, the insurance provided by Consultant.

8.3 Insurers providing the insurance required by this Agreement must either be: (1) authorized by a current certificate of authority issued by the State of Florida to transact insurance in the State of Florida, or (2) except with respect to coverage for the liability imposed by the Florida Workers' Compensation Act, an eligible surplus lines insurer under Florida law. In addition, each such insurer shall have and maintain throughout the period for which coverage is required, a minimum A. M. Best Company Rating of "A-" and a minimum Financial Size Category of "VII." To the extent insurance requirements are designated in Exhibit D, the applicable policies shall comply with the following:

8.3.1 Commercial General Liability Insurance. Policy shall be no more restrictive than that provided by the latest edition of the standard Commercial General Liability Form (Form CG 00 01) as filed for use in the State of Florida by the Insurance Services Office (ISO), with the exception of endorsements specifically required by ISO or the State of Florida, and liability arising out of:

Mold, fungus, or bacteria
Terrorism
Silica, asbestos or lead
Sexual molestation
Architects and engineers professional liability, unless coverage for professional liability is specifically required by this Agreement.

County and State of Florida Department of Transportation (FDOT), respectively, shall be included on the policy (and any excess or umbrella policy) as an "Additional Insured" on a form no more restrictive than ISO form CG 20 10 (Additional Insured – Owners, Lessees,

or Contractor). The policy (and any excess or umbrella policy) must be endorsed to waive the insurer's right to subrogate against County.

8.3.2 Business Automobile Liability Insurance. Policy shall be no more restrictive than that provided by Section II (Liability Coverage) of the most recent version of the standard Business Auto Policy (ISO Form CA 00 01) without any restrictive endorsements, including coverage for liability contractually assumed, and shall cover all owned, non-owned, and hired autos used in connection with the performance of work under this Agreement. County and State of Florida Department of Transportation (FDOT), respectively, shall be included on the policy (and any excess or umbrella policy) as an "Additional Insured." The policy (and any excess or umbrella policy) must be endorsed to waive the insurer's right to subrogate against County.

8.3.3 Workers' Compensation/Employer's Liability Insurance. Such insurance shall be no more restrictive than that provided by the latest edition of the standard Workers' Compensation Policy, as filed for use in Florida by the National Council on Compensation Insurance (NCCI), with the exception of endorsements required by NCCI or the State of Florida. The policy must be endorsed to waive the insurer's right to subrogate against County in the manner which would result from the attachment of the NCCI form "Waiver of our Right to Recover from Others Endorsement" (Advisory Form WC 00 03 13) with County scheduled thereon. Where appropriate, coverage shall be included for any applicable Federal or State employer's liability laws including, but not limited to, the Federal Employer's Liability Act, the Jones Act, and the Longshoreman and Harbor Workers' Compensation Act.

8.3.4 Professional Liability Insurance. Such insurance shall cover Consultant for those sources of liability arising out of the rendering or failure to render professional services in the performance of the services required in this Agreement. If policy provides coverage on a claims-made basis, such coverage must respond to all claims reported within at least three (3) years following the period for which coverage is required, unless a longer period is indicated in Exhibit D.

8.4 Within fifteen (15) days after the full execution of this Agreement or notification of award, whichever is earlier, Consultant shall provide to County satisfactory evidence of the insurance required in this Agreement. With respect to the Workers' Compensation/Employer's Liability Insurance, Professional Liability, and Business Automobile Liability Insurance, an appropriate Certificate of Insurance identifying the project and signed by an authorized representative of the insurer shall be satisfactory evidence of insurance. With respect to the Commercial General Liability, an appropriate Certificate of Insurance identifying the project, signed by an authorized representative of the insurer, and copies of the actual additional insured endorsements as issued on the policy(ies) shall be satisfactory evidence of such insurance.

8.5 Coverage is not to cease and is to remain in force until County determines all performance required of Consultant is completed. If any of the insurance coverage will expire prior to the

completion of the Services, proof of insurance renewal shall be provided to County prior to the policy's expiration.

8.6 Consultant shall provide County thirty (30) days' advance notice of any cancellation of the policy except in cases of cancellation for non-payment for which County shall be given ten (10) days' advance notice.

8.7 Consultant shall provide, within thirty (30) days after receipt of a written request from County, a copy of the policies providing the coverage required by this Agreement. Consultant may redact portions of the policies that are not relevant to the insurance required by this Agreement.

8.8 County and Consultant, each for itself and on behalf of its insurers, to the fullest extent permitted by law without voiding the insurance required hereunder, waive all rights against the other party and any of the other party's contractors, subcontractors, agents, and employees for damages or loss to the extent covered and paid for by any insurance maintained by the other party.

8.9 If Consultant uses a Subconsultant, Consultant shall require each Subconsultant to endorse County and State of Florida Department of Transportation (FDOT), respectively, as an "Additional Insured" on the Subconsultant's Commercial General Liability policy.

ARTICLE 9. EQUAL EMPLOYMENT OPPORTUNITY AND CBE COMPLIANCE

9.1 No party to this Agreement may discriminate on the basis of race, color, sex, religion, national origin, disability, age, marital status, political affiliation, sexual orientation, pregnancy, or gender identity and expression in the performance of this Agreement. Consultant shall comply with all applicable requirements of County's CBE Program as established by Broward County Business Opportunity Act of 2012, Section 1-81, Broward County Code of Ordinances (the "Act"), in the award and administration of this Agreement.

Consultant shall include the foregoing or similar language in its contracts with any Subconsultants, except that any project assisted by the U.S. Department of Transportation funds shall comply with the non-discrimination requirements in 49 C.F.R. Parts 23 and 26.

Failure by Consultant to carry out any of the requirements of this section shall constitute a material breach of this Agreement, which shall permit County to terminate this Agreement or to exercise any other remedy provided under this Agreement, Broward County Code of Ordinances, Broward County Administrative Code, or under other applicable law, all such remedies being cumulative.

9.2 Consultant acknowledges that the Board, acting through the OESBD, may make minor administrative modifications to the CBE Program which shall become applicable to this Agreement if the administrative modifications are not unreasonable. Written notice of any such

modification shall be provided to Consultant and shall include a deadline for Consultant to notify County if Consultant concludes that the modification exceeds the authority under this section. Failure of Consultant to timely notify County of its conclusion that the modification exceeds such authority shall be deemed acceptance of the modification by Consultant.

County may add or increase the required participation of CBE firms under this Agreement in connection with any amendment, extension, modification, or change order to this Agreement that, by itself or aggregated with previous amendments, extensions, modifications, or change orders, increases the initial Agreement price by ten percent (10%) or more. Consultant shall make a good faith effort to include CBE firms in work resulting from any such amendment, extension, modification, or change order and shall report such efforts, along with evidence thereof, to the OESBD.

9.3 Consultant will meet the following CBE participation goal by utilizing the CBE firms for the following percentage of Services under this Agreement:

CBE participation goal	Not Applicable
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Consultant stipulates that each CBE firm utilized to meet the CBE participation goal must be certified by the OESBD. Consultant shall inform County immediately when a CBE firm is not able to perform or if Consultant believes the CBE firm should be replaced for any other reason, so that the OESBD may review and verify the good faith efforts of Consultant to substitute the CBE firm with another CBE firm. Whenever a CBE firm is terminated for any reason, including cause, Consultant shall provide written notice to the OESBD and shall substitute another CBE firm in order to maintain the level of CBE participation required herein, unless otherwise provided herein or agreed in writing by the Parties. Such substitution shall not be required in the event the termination results from County modifying the scope of services and there is no available CBE to perform the new scope of services, in which event Consultant shall notify County and the OESBD may adjust the CBE participation goal by written notice to Consultant. Consultant may not terminate for convenience a CBE firm without County's prior written consent, which consent shall not be unreasonably withheld.

9.4 In performing the services for this Project, the Parties hereby incorporate the list of Consultant's participating CBE firms, addresses, scope of work, and the percentage of work amounts identified on each Letter of Intent into this Agreement (Exhibit C). Promptly upon execution of this Agreement by County, Consultant shall enter into a formal contract with the CBE firms listed in Exhibit C and, upon request, shall provide copies of the contracts to the Contract Administrator and the OESBD.

9.5 Consultant shall provide written monthly reports to the Contract Administrator attesting to Consultant's compliance with the CBE participation goals stated in this article. In addition, Consultant shall allow County to engage in on-site reviews to monitor Consultant's progress in achieving and maintaining its contractual and CBE Program obligations. Such review and

monitoring shall be by the Contract Administrator in conjunction with the OESBD, unless otherwise determined by the County Administrator. County shall have access, without limitation, to Consultant's books and records, including payroll records, tax returns and records, and books of account, on five (5) business days' notice.

9.6 In the event of Consultant's noncompliance with its CBE participation goal (including without limitation the unexcused reduction of a CBE firm's participation), the affected CBE firm shall have the right to exercise any remedies as may be available as between the CBE firm and Consultant.

9.7 The presence of a "pay when paid" provision in a Consultant's contract with a CBE firm shall not preclude County or its representatives from inquiring into allegations of nonpayment.

9.8 By execution of this Agreement, Consultant represents that it has not been placed on the discriminatory vendor list as provided in Section 287.134, Florida Statutes. County hereby materially relies on such representation in entering into this Agreement. An untrue representation of the foregoing shall entitle County to terminate this Agreement and recover from Consultant all monies paid by County pursuant to this Agreement, and may result in debarment from County's competitive procurement activities.

ARTICLE 10. MISCELLANEOUS

10.1 Ownership of Documents. All finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, specifications and reports prepared or provided by Consultant in connection with this Agreement shall become the property of County, whether the Project for which they are made is completed or not, and shall be delivered by Consultant to Contract Administrator within fifteen (15) days of the receipt of the written notice of termination. If applicable, County may withhold any payments then due to Consultant until Consultant complies with the provisions of this section.

10.2 Termination.

10.2.1 This Agreement or any Work Authorization issued under this Agreement may be terminated for cause by the aggrieved party if the party in breach has not corrected the breach within ten (10) days after written notice from the aggrieved party identifying the breach. This Agreement may also be terminated for convenience by the Board. Termination for convenience by the Board shall be effective on the termination date stated in written notice provided by County, which termination date shall be not less than thirty (30) days after the date of such written notice. If this Agreement or Work Authorization was entered into on behalf of County by someone other than the Board, termination by County may be by action of the County Administrator or County representative (including his or her successor) who entered in this Agreement on behalf of County. This Agreement may also be terminated by the County Administrator upon such notice as the County Administrator deems appropriate under the circumstances in

the event the County Administrator determines that termination is necessary to protect the public health or safety. If County erroneously, improperly or unjustifiably terminates for cause, such termination shall be deemed a termination for convenience, which shall be effective thirty (30) days after such notice of termination for cause is provided.

10.2.2 This Agreement may be terminated for cause for reasons including, but not limited to, Consultant's repeated (whether negligent or intentional) submission for payment of false or incorrect bills or invoices, failure to suitably perform the work; or failure to continuously perform the work in a manner calculated to meet or accomplish the objectives as set forth in this Agreement or Work Authorization. This Agreement may also be terminated for cause if Consultant is placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List created pursuant to Section 215.473, Florida Statutes, as amended or if Consultant provides a false certification submitted pursuant to Section 287.135, Florida Statutes, as amended. This Agreement or a Work Authorization may also be terminated by the Board:

10.2.2.1 Upon the disqualification of Consultant as a CBE by County's Director of the Office of Economic and Small Business Development if Consultant's status as a CBE was a factor in the award of this Agreement or the Work Authorization, and such status was misrepresented by Consultant;

10.2.2.2 Upon the disqualification of Consultant by County's Director of the Office of Economic and Small Business Development due to fraud, misrepresentation, or material misstatement by Consultant in the course of obtaining this Agreement or the Work Authorization, or attempting to meet the CBE contractual obligations;

10.2.2.3 Upon the disqualification of one or more of Consultant's CBE participants by County's Director of the Office of Economic and Small Business Development if any such participant's status as a CBE firm was a factor in the award of this Agreement or the Work Authorization, and such status was misrepresented by Consultant or such participant;

10.2.2.4 Upon the disqualification of one or more of Consultant's CBE participants by County's Director of the Office of Economic and Small Business Development if such CBE participant attempted to meet its CBE contractual obligations through fraud, misrepresentation, or material misstatement; or

10.2.2.5 If Consultant is determined by County's Director of the Office of Economic and Small Business Development to have been knowingly involved in any fraud, misrepresentation, or material misstatement concerning the CBE status of its disqualified CBE participant.

10.2.3 Notice of termination shall be provided in accordance with the "NOTICES" section of this Agreement except that notice of termination by the County Administrator which the County Administrator deems necessary to protect the public health or safety may be verbal notice that shall be promptly confirmed in writing in accordance with the "NOTICES" section of this Agreement.

10.2.4 In the event this Agreement or a Work Authorization issued under this Agreement is terminated for convenience, Consultant shall be paid for any services properly performed under this Agreement or Work Authorization through the termination date specified in the written notice of termination. Consultant acknowledges and agrees that it has received good, valuable and sufficient consideration from County, the receipt and adequacy of which are hereby acknowledged by Consultant, for County's right to terminate this Agreement for convenience.

10.2.5 In the event this Agreement or a Work Authorization is terminated, for any reason, any amounts due Consultant shall be withheld by County until all documents are provided to County pursuant to Section 10.1.

10.3 Public Records. To the extent Consultant is acting on behalf of County as stated in Section 119.0701, Florida Statutes, Consultant shall:

- a. Keep and maintain public records required by County to perform the services under this Agreement;
- b. Upon request from County, provide County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time and at a cost that does not exceed that provided in Chapter 119, Florida Statutes, or as otherwise provided by law;
- c. Ensure that public records that are exempt or confidential and exempt from public record requirements are not disclosed except as authorized by law for the duration of this Agreement and following completion or termination of this Agreement if the records are not transferred to County; and
- d. Upon expiration or termination of this Agreement, transfer to County, at no cost, all public records in possession of Consultant or keep and maintain public records required by County to perform the services. If Consultant transfers the records to County, Consultant shall destroy any duplicate public records that are exempt or confidential and exempt. If Consultant keeps and maintains the public records, Consultant shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to County upon request in a format that is compatible with the information technology systems of County.

The failure of Consultant to comply with the provisions of this section shall constitute a material breach of this Agreement entitling County to exercise any remedy provided in this Agreement or under applicable law.

A request for public records regarding this Agreement must be made directly to County, who will be responsible for responding to any such public records requests. Consultant will provide any requested records to County to enable County to respond to the public records request.

Any material submitted to County that Consultant contends constitutes or contains trade secrets or is otherwise exempt from production under Florida public records laws (including Florida Statutes Chapter 119) ("Trade Secret Materials") must be separately submitted and conspicuously labeled "EXEMPT FROM PUBLIC RECORD PRODUCT – TRADE SECRET." In addition, Consultant must, simultaneous with the submission of any Trade Secret Materials, provide a sworn affidavit from a person with personal knowledge attesting that the Trade Secret Materials constitute trade secrets under Florida Statutes Section 812.081 and stating the factual basis for same. In the event that a third party submits a request to County for records designated by Consultant as Trade Secret Materials, County shall refrain from disclosing the Trade Secret Materials, unless otherwise ordered by a court of competent jurisdiction or authorized in writing by Consultant. Consultant shall indemnify and defend County and its employees and agents from any and all claims, causes of action, losses, fines, penalties, damages, judgments and liabilities of any kind, including attorneys' fees, litigation expenses, and court costs, relating to the non-disclosure of any Trade Secret Materials in response to a records request by a third party.

IF CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF FLORIDA STATUTES CHAPTER 119 TO CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (954) 577-4579, rtornese@broward.org, 1 N. UNIVERSITY DR., BOX B300, SUITE 3200B, PLANTATION, FLORIDA 33324.

10.4 Audit Rights and Retention of Records. Consultant shall preserve all Contract Records (as defined below) for a minimum period of three (3) years after expiration or termination of this Agreement or until resolution of any audit findings, whichever is longer. Contract Records shall, upon reasonable notice, be open to County inspection and subject to audit and reproduction during normal business hours. County audits and inspections pursuant to this section may be performed by any County representative (including any outside representative engaged by County). County may conduct audits or inspections at any time during the term of this Agreement and for a period of three years after the expiration or termination of this Agreement (or longer if required by law). County may, without limitation, verify information, payroll distribution, and amounts through interviews, written affirmations, and on-site inspection with Consultant's employees, Subconsultants, vendors, or other labor.

Contract Records include any and all information, materials and data of every kind and character, including without limitation, records, books, papers, documents, subscriptions, recordings, agreements, purchase orders, leases, contracts, commitments, arrangements, notes, daily diaries, drawings, receipts, vouchers and memoranda, and any and all other documents that pertain to rights, duties, obligations or performance under this Agreement. Contract Records include hard copy and electronic records, written policies and procedures, time sheets, payroll records and registers, cancelled payroll checks, estimating work sheets, correspondence, invoices and related payment documentation, general ledgers, insurance rebates and dividends, and any other records pertaining to rights, duties, obligations or performance under this Agreement, whether by Consultant or Subconsultants.

County shall have the right to audit, review, examine, inspect, analyze, and make copies of all Contract Records at a location within Broward County. County reserves the right to conduct such audit or review at Consultant's place of business, if deemed appropriate by County, with seventy-two (72) hours' advance notice. Consultant agrees to provide adequate and appropriate work space. Consultant shall provide County with reasonable access to Consultant's facilities, and County shall be allowed to interview all current or former employees to discuss matters pertinent to the performance of this Agreement.

Consultant further agrees to comply with Section 20.055(5), F.S., and incorporate in all subcontracts the obligation to comply with Section 20.055(5), F.S. Consultant shall, by written contract, require its Subconsultants to agree to the requirements and obligations of this section.

Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for County's disallowance and recovery of any payment reliant upon such entry. If an audit or inspection in accordance with this section discloses overpricing or overcharges to County of any nature by Consultant or its Subconsultants in excess of five percent (5%) of the total contract billings reviewed by County, the reasonable actual cost of County's audit shall be reimbursed to County by Consultant in addition to making adjustments for the overcharges. Any adjustments or payments due as a result of such audit or inspection shall be made within thirty (30) days from presentation of County's findings to Consultant.

10.5 Public Entity Crime Act. Consultant represents that it is familiar with the requirements and prohibitions under the Public Entity Crime Act, Section 287.133, Florida Statutes, and represents that its entry into this Agreement will not violate that Act. In addition to the foregoing, Consultant further represents that there has been no determination that it committed a "public entity crime" as defined by Section 287.133, Florida Statutes, and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether Consultant has been placed on the convicted vendor list. Notwithstanding any provision in this Agreement to the contrary, if any representation stated in this section is false, County shall have the right to immediately terminate this Agreement and recover all sums paid to Consultant under this Agreement

10.6 Subconsultants. Consultant shall utilize the Subconsultants identified in the proposal that were a material part of the selection of Consultant to provide the services for this Project. Consultant shall obtain written approval of Contract Administrator prior to changing or modifying the list of Subconsultants submitted by Consultant. Where Consultant's failure to use Subconsultant results in Consultant's noncompliance with CBE participation goals, such failure shall entitle the affected CBE firm to damages available under local and state law. The list of Subconsultants is provided on Exhibit C-1, Schedule of Subconsultants as attached hereto and made a part hereof. Consultant shall bind in writing each and every approved Subconsultant to the terms stated in this Agreement, provided that this provision shall not, in and of itself, impose the insurance requirements set forth in Article 8 on Consultant's Subconsultants.

10.7 Assignment and Performance. Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered without the written consent of the other party and Consultant shall not subcontract any portion of the work required by this Agreement except as authorized pursuant to Section 10.6. County shall have the right to terminate this Agreement, effective immediately, if there is an assignment, or attempted assignment, transfer, or encumbrance, of this Agreement or any right or interest herein by Consultant without County's written consent.

Consultant represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the Scope of Services and to provide and perform such services to County's satisfaction for the agreed compensation.

Consultant shall perform its duties, obligations, and services under this Agreement in a skillful and respectable manner. The quality of Consultant's performance and all interim and final product(s) provided to or on behalf of County shall be comparable to local and national standards.

10.8 Indemnification of County and FDOT. To the fullest extent permitted by law, Consultant shall indemnify and hold harmless County, FDOT, and their officers and employees from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness or intentionally wrongful conduct of Consultant or other persons employed or utilized by Consultant in the performance of this Agreement. The provisions of this section shall survive the expiration or earlier termination of this Agreement. Nothing contained in this paragraph is intended to nor shall constitute a waiver of the County's or FDOT's sovereign immunity. To the extent considered necessary by Contract Administrator and County Attorney, any sums due Consultant under this Agreement may be retained by County until all of County's claims for indemnification pursuant to this Agreement have been settled or otherwise resolved, and any amount withheld shall not be subject to payment of interest by County.

As required under the FDOT CIGP Agreement between Broward County and FDOT, Consultant shall indemnify, save, and hold harmless FDOT from all claims, demands, liabilities, and suits of any nature arising out of, because of or due to any intentional and/or negligent act or occurrence, omission or commission of Consultant or any of Consultant's agents, subconsultants or subcontractors. It is specifically understood and agreed that this indemnification provision does not cover or indemnify FDOT for its own negligence.

10.9 Representative of County and Consultant. The Parties recognize that questions in the day-to-day conduct of the Project will arise. The Contract Administrator, upon Consultant's request, shall advise Consultant in writing of one (1) or more County employees to whom all communications pertaining to the day-to-day conduct of the Project shall be addressed. Consultant shall inform the Contract Administrator in writing of Consultant's representative to whom matters involving the conduct of the Project shall be addressed.

10.10 All Prior Agreements Superseded. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements or 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.

10.11 Amendments. No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

10.12 Notices. Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail, postage prepaid, return receipt requested, or sent by commercial express carrier with acknowledgement of delivery, or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set

forth herein until changed in writing in the manner provided in this section. For the present, the Parties designate the following as the respective places for giving of notice:

FOR COUNTY:

Richard Tornese P.E., Director
Broward County Highway Construction and Engineering Division
1 N. University Drive, Box B300
Plantation, Florida-33324-2038

FOR CONSULTANT:

New Millennium Engineering, Inc.,
4868 SW 72nd Avenue
Miami, Florida 33155

10.13 Truth-In-Negotiation Certificate. Consultant's compensation under this Agreement is based upon representations supplied to County by Consultant, and Consultant certifies that the wage rates, factual unit costs, and other information supplied to substantiate Consultant's compensation, including without limitation in the negotiation of this Agreement, are accurate, complete, and current at the time of contracting. County shall be entitled to recover any damages it incurs to the extent any such representation is untrue.

10.14 Interpretation. The language of this Agreement has been agreed to by both Parties to express their mutual intent and no rule of strict construction shall be applied against either party hereto. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein," "hereof," "hereunder," and "hereinafter" refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a section or article of this Agreement, such reference is to the section or article as a whole, including all of the subsections of such section, unless the reference is made to a particular subsection or subparagraph of such section or article.

10.15 Consultant's Staff. Consultant will provide the key staff identified in their proposal for Project as long as said key staff are in Consultant's employment. Consultant will obtain prior written approval of Contract Administrator to change key staff. Consultant shall provide Contract Administrator with such information as necessary to determine the suitability of proposed new key staff. Contract Administrator will be reasonable in evaluating key staff qualifications. If Contract Administrator desires to request removal of any of Consultant's staff, Contract Administrator shall first meet with Consultant and provide reasonable justification for said removal.

10.16 Drug-Free Workplace. It is a requirement of County that it enter into contracts only with firms that certify the establishment of a drug-free work place in accordance with Section 21.31(a) of the Broward County Administrative Code. Execution of this Agreement by Consultant shall also serve as Consultant's required certification that it either has or that it will establish a drug-free work place in accordance with Section 21.31(a) of the Broward County Administrative Code.

10.17 Independent Contractor. Consultant is an independent contractor under this Agreement. Services provided by Consultant shall be subject to the supervision of Consultant. In providing the services, Consultant or its agents shall not be acting and shall not be deemed as acting as officers, employees, or agents of County, except as authorized by the Contract Administrator for permitting, licensing, or other regulatory requirements.

10.18 Third Party Beneficiaries. Neither Consultant nor County intends to directly or substantially benefit a third party by this Agreement. Therefore, the Parties acknowledge that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a right or claim against either of them based upon this Agreement.

10.19 Conflicts. Neither Consultant nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with Consultant's loyal and conscientious exercise of judgment and care related to its performance under this Agreement. None of Consultant's officers or employees shall, during the term of this Agreement, serve as an expert witness against County in any legal or administrative proceeding in which he, she, or Consultant is not a party, unless compelled by court process. Further, such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of County in connection with any such pending or threatened legal or administrative proceeding unless compelled by court process. The limitations of this section shall not preclude Consultant or any persons in any way from representing themselves, including giving expert testimony in support thereof, in any action or in any administrative or legal proceeding. In the event Consultant is permitted pursuant to this Agreement to utilize Subconsultants to perform any services required by this Agreement, Consultant shall require such Subconsultants, by written contract, to comply with the provisions of this section to the same extent as Consultant.

10.20 Contingency Fee. Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, Board shall have the right to terminate this Agreement without liability at its discretion, or to deduct from this Agreement price or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

10.21 Materiality and Waiver of Breach. County and Consultant agree that each requirement, duty, and obligation set forth herein was bargained for at arms-length and is agreed to by the Parties in exchange for quid pro quo, that each is substantial and important to the formation of this Agreement and that each is, therefore, a material term hereof. County's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

10.22 Compliance with Laws. Consultant shall comply with all federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations related to this Agreement.

10.23 Severability. In the event any part of this Agreement is found to be unenforceable by any court of competent jurisdiction, that part shall be deemed severed from this Agreement and the balance of this Agreement shall remain in full force and effect.

10.24 Joint Preparation. This Agreement has been jointly prepared by the Parties hereto, and shall not be construed more strictly against either Party.

10.25 Priority of Provisions. If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of this Agreement, the term, statement, requirement, or provision contained in Articles 1 through 10 of this Agreement shall prevail and be given effect.

10.26 Law, Jurisdiction, Venue, Waiver of Jury Trial. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the state of Florida. All Parties acknowledge and accept that jurisdiction of any controversies or legal problems arising out of this Agreement, and any action involving the enforcement or interpretation of any rights hereunder, shall be exclusively in the state courts of the Seventeenth Judicial Circuit in Broward County, Florida, and venue for litigation arising out of this Agreement shall be exclusively in such state courts, forsaking any other jurisdiction which either party may claim by virtue of its residency or other jurisdictional device. **BY ENTERING INTO THIS AGREEMENT, CONSULTANT AND County HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT. IF A PARTY FAILS TO WITHDRAW A REQUEST FOR A JURY TRIAL IN A LAWSUIT ARISING OUT OF THIS AGREEMENT AFTER WRITTEN NOTICE BY THE OTHER PARTY OF VIOLATION OF THIS SECTION, THE PARTY MAKING THE REQUEST FOR JURY TRIAL SHALL BE LIABLE FOR THE REASONABLE ATTORNEYS' FEES AND COSTS OF THE OTHER PARTY IN CONTESTING THE REQUEST FOR JURY TRIAL, AND SUCH AMOUNTS SHALL BE AWARDED BY THE COURT IN ADJUDICATING THE MOTION.**

10.27 Incorporation by Reference. Any and all Recital clauses stated above are true and correct and are incorporated herein by reference. The attached Exhibits are incorporated into and made a part of this Agreement.

10.28 Re-Use of Project. County may, at its option, re-use (in whole or in part) the resulting end-product or deliverables resulting from Consultant's professional services (including, but not limited to, drawings, specifications, other documents, and services as described herein and in Exhibit A, Scope of Services); and Consultant agrees to such re-use in accordance with this provision.

If the Contract Administrator elects to re-use the services, drawings, specifications, and other documents, in whole or in part, prepared for this Project for other projects on other sites, Consultant will be paid a re-use fee to be negotiated between Consultant and County's Purchasing Negotiator, subject to approval by the proper awarding authority.

Each re-use shall include all Basic Services and modifications to the drawings, specifications, and other documents normally required to adapt the design documents to a new site. This re-use may include preparation of reverse plans, changes to the program, provision for exceptional site conditions, preparation of documents for off-site improvements, provisions for revised solar orientation, provisions for revised vehicular and pedestrian access, and modifications to building elevations, ornament, or other aesthetic features. In all re-use assignments, the design documents shall be revised to comply with building codes and other jurisdictional requirements current at the time of re-use for the new site location.

The terms and conditions of this Agreement shall remain in force for each re-use project, unless otherwise agreed by the Parties in writing.

10.29 Payable Interest

10.29.1. Payment of Interest. County shall not be liable to pay any interest to Consultant for any reason, whether as prejudgment interest or for any other purpose, and in furtherance thereof Consultant waives, rejects, disclaims and surrenders any and all entitlement it has or may have to receive interest in connection with a dispute or claim arising from, related to, or in connection with this Agreement. This subsection shall not apply to any claim for interest, including for post-judgment interest, if such application would be contrary to applicable law.

10.29.2. Rate of Interest. If the preceding subsection is inapplicable or is determined to be invalid or unenforceable by a court of competent jurisdiction, the annual rate of interest payable by County under this Agreement, whether as prejudgment interest or for any other purpose, shall be, to the full extent permissible under applicable law, 0.25% (one quarter of one percent) simple interest (uncompounded).

10.30 Representation of Authority. Each individual executing this Agreement on behalf of a party hereto hereby represents and warrants that he or she is, on the date he or she signs this Agreement, duly authorized by all necessary and appropriate action to execute this Agreement on behalf of such party and does so with full and legal authority.

10.31 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.

10.32 Intentionally Left Blank.

10.33 E-Verify Requirements. As required under the FDOT CIGP Agreement between Broward County and FDOT, Consultant shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Consultant during the term of this Agreement. Additionally, Consultant shall expressly require any subconsultants and subcontractors performing work or providing services pursuant to this Agreement to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subconsultant or subcontractor during the term of this Agreement.

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement: BROWARD COUNTY, through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Vice-Mayor, authorized to execute same by Board action on the _____ day of _____, 20____, and **New Millennium Engineering, Inc.**, signing by and through its Vice President, duly authorized to execute same.

County

ATTEST:

BROWARD COUNTY, by and through its Board of County Commissioners

Broward County Administrator, as Ex-officio Clerk of the Broward County Board of County Commissioners

By _____
Mayor
____ day of _____, 2017

Insurance requirements approved by Broward County Risk Management Division

Approved as to form by
Andrew J. Meyers
Broward County Attorney
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-7641

By CPounall 11/02/17
Signature (Date)

Colleen Pounall Risk Analyst
Print Name and Title above

By MA Moore 11/2/17
Maya A. Moore (Date)
Assistant County Attorney

By Michael J Kerr 11/3/17
Michael J. Kerr (Date)
Deputy County Attorney

AGREEMENT BETWEEN BROWARD COUNTY AND NEW MILLENNIUM ENGINEERING, INC. FOR CONSULTANT SERVICES FOR PEMBROKE ROAD FROM DYKES ROAD TO EAST OF SILVER SHORES BLVD. IN BROWARD COUNTY, FLORIDA, RFP/RLI # R2114080P1

FOR INDIVIDUAL:

Consultant

WITNESSES:

Signature

By _____

Print/Type Name

(Please Type Name)

Signature


____ day of _____, 20__.

Print/Type Name

FOR CORPORATION:

Consultant

ATTEST:



Secretary

New Millennium Engineering, Inc.
(Typed Name of Consultant/Firm)

By 

President/Vice President

Geoffrey Parker
(Typed Name of Secretary)

David Tinder-Vice President
(Typed Name and Title)

CORPORATE SEAL

2 day of November, 2017.



INDEX TO EXHIBITS:

Exhibit A	Scope of Work
Exhibit B	Maximum Billing Rates
Exhibit B-1	Direct Expenses Cost
Exhibit B-2	Reimbursable Testing and Aerial Photography Cost
Exhibit C	Schedule of Subconsultants
Exhibit D	Minimum Insurance Requirements

DETAILED SCOPE OF SERVICES

EXHIBIT A

CONSTRUCTION ENGINEERING AND INSPECTION (CEI) SERVICES FOR PEMBROKE ROAD FROM DYKES ROAD TO SILVER SHORES BOULEVARD COUNTY PROJECT # 5427

1.0 GENERAL DESCRIPTION

1.1 The CONSULTANT is responsible for all construction engineering and inspection functions. The CONSULTANT is responsible for utilizing effective control procedures that will assure that the construction of the Project is performed in reasonable conformity with the plans, specifications and contract provisions.

1.2 The CONSULTANT is responsible for providing technical and administrative personnel as necessary to effectively carry out its responsibilities under this scope and underlying Agreement.

1.3 In order to allow sufficient time for the CONSULTANT to schedule its activities the CONSULTANT will be issued a Notice to Proceed by the Contract Administrator at least thirty (30) calendar days in advance of the construction project commencing. The CONSULTANT is responsible for maintaining close coordination with the COUNTY and the Contractor in order to minimize rescheduling of the CONSULTANT's activities due to construction delays or changes in scheduling of the Contractor's activities.

1.4 The CONSULTANT is fully responsible for carrying out all functions assigned to it by this scope and underlying Agreement.

1.5 The CONSULTANT is responsible for providing coordination of all activities, correspondence, reports and other communications related to its responsibilities under this Agreement necessary for the Contract Administrator to carry out its responsibilities.

1.6 Construction engineering and inspection forces are required of the CONSULTANT at all times while the Contractor is working on the Project.

2.0 CEI SERVICES:

2.1 General:

2.1.1 It is the responsibility of the CONSULTANT to provide services as necessary to administer the construction contract in the manner so as to assure that the Project is constructed in conformity with the plans, specifications and contract provisions.

2.1.2 The CONSULTANT is responsible for advising the Contract Administrator in writing, of any omissions, substitutions, defects and deficiencies noted in the work of the Contractor and the corrective action taken. The work provided by the CONSULTANT, in no way, relieves the Contractor of responsibility for the means and method and the satisfactory performance of the construction contracts.

2.2 Survey Control:

2.2.1 Upon authorization by the Contract Administrator, or their designee, the CONSULTANT is responsible for verifying the existence and accuracy of location for all reference points and baseline control points indicated on the plans. The CONSULTANT is responsible for re-establish any missing or disturbed control points as may be required to maintain the accuracy for survey control.

2.2.2 Upon authorization by the Contract Administrator, or their designee, the CONSULTANT is responsible for establishing the survey control baseline(s) along with sufficient baseline control points and bench marks appropriate intervals along the Project for use by the Contractor and the CONSULTANT in performing verification surveys of construction layout. The CONSULTANT is responsible for (1) make and record such measurements as are necessary to calculate and document quantities for pay items; and, (2) make and record pre-construction cross section surveys of the Project site in those areas where earthwork (i.e., embankment, excavation, etc.) is part of the construction Project; and (3) perform incidental engineering surveys as may be necessary to carry out the services covered by this Agreement and to verify and confirm the accuracy of the contractor's survey layout work.

2.3 Resident Inspection:

2.3.1 The CONSULTANT is responsible for providing services to monitor the Contractor's on-site construction operations and to inspect all materials entering into the worksite as required to assure that the quality of workmanship and materials is such that the Project is completed in conformity with the plans, specifications and other contract provisions. The CONSULTANT is responsible for keeping detailed, accurate records of the Contractor's daily operations and significant events that affect the work.

2.4 Verification Testing:

2.4.1 The CONSULTANT is responsible for performing sampling and testing of component materials and completed work items to the extent that it assures that the materials and workmanship incorporated in the Project are in conformity with the plans, specifications and contract provisions.

2.5 Engineering Services:

2.5.1 The CONSULTANT is responsible for performing all engineering services necessary to assure that proper coordination of the activities of all parties involved in accomplishing completion of the Project is achieved; to maintain complete, accurate records of all activities and events relating to the Project; to properly document all significant changes to the Project; to provide interpretations of the plans, specifications and contract provisions; to make recommendations to COUNTY to resolve disputes which arise in relation to the construction contracts; and to maintain an adequate level of surveillance of the Contractor's activities. This includes but not be limited to:

2.5.1.1 Schedule and conduct a pre-construction conference for the Project. Record significant information revealed and decisions made at this

conference and distribute copies of these minutes to the appropriate parties.

2.5.1.2 Maintain on a daily basis a complete and accurate record of all activities and events relating to the Project and a record of all work completed by the Contractor, including quantities of pay items. The CONSULTANT is responsible for immediately reporting apparent significant changes in quantity, time or cost as they are noted.

2.5.1.3 Maintain a Roadway and Bridge Construction Diary acceptable to the Contract Administrator.

2.5.1.4 Maintain a log of all materials entering into the work site with proper indication of the basis of acceptance of each shipment of material.

2.5.1.5 Maintain records of all sampling and testing accomplished and analyze such records required to ascertain acceptability of materials and completed work items. The field reports for records of work and testing results are to be submitted within one week.

2.5.1.6 Complete setup and maintenance of files, developing monthly progress reports, schedule updates, work efforts to develop and execute sub-consultant agreements, etc.

2.5.1.7 Responsible for setting up and maintaining throughout the period an electronic contract file (FTP Site), approved by the COUNTY, which organizes the different elements of the construction and should be readily available to the desired COUNTY personnel.

2.5.1.8 The CONSULTANT is responsible for obtaining and review the Contractor's construction schedule, analyze it following guidelines developed by the COUNTY and provide a written report of its findings to the COUNTY, together with a draft of a response to the Contractor. If additional or interim reports are required by the COUNTY during the normal course of the contract, they are to be provided at no additional cost to the COUNTY. Following the COUNTY's review of the Report, the CONSULTANT responds to the Contractor advising of the modifications necessary for approval. The approval is communicated to the CONSULTANT to the Contractor and the approved schedule becomes the Baseline by which all-contractual schedule – related issues are measured and evaluated.

2.5.1.9 Provide to the Contractor interpretations of the plans, specifications and contract provisions. The CONSULTANT is responsible for consulting with the Contract Administrator when an Interpretation involves complex issues or may have an impact on the cost of performing the work. When warranted, the Contract Administrator may request an interpretation from the CONSULTANT and/or COUNTY Design Engineers.

2.5.1.10 Analyze problems that arise on the Project and proposals submitted by the Contractor and prepare and submit a recommendation to the Contract Administrator.

2.5.1.11 Analyze changes to the plans, specifications or contract provisions and extra work which appear to be necessary to carry out the intent of the contract when it is determined that a change or extra work is necessary and such work is within the scope and intent of the original contract.

2.5.1.12 When it is determined that a modification to the original contract for the Project is required due to a necessary change in the character of the work, negotiate prices with the Contractor and prepare and submit for approval by the Contract Administrator a Change Order in accordance with all applicable COUNTY requirements.

2.5.1.13 In the event that the Contractor for the Project submits a claim for additional compensation, analyze the submittal and prepare a recommendation to the Contract Administrator covering validity and reasonableness of charges and conduct negotiations leading to recommendations for settlement of the claim.

2.5.1.14 In the event that the Contractor for the Project submits a request for extension of the allowable contract time, analyze the request and prepare a recommendation to the Contract Administrator covering accuracy of statements and the actual effect of delaying factors on completion of controlling work items.

2.5.1.15 Monitor the Project to the extent necessary to determine whether construction activities violate the requirements of any permits. Notify the Contractor of any violations or potential violations and require their immediate resolution of the problem. Violations are to be reported to the Contract Administrator immediately.

2.5.1.16 Maintain a complete log of all submittals of shop drawings, noting the dates of first submittal and subsequent reviews and resubmittals, approvals, etc. The CONSULTANT is responsible for taking note of and verifying that any changes are properly carried through to construction and further record, report, make recommendations and evaluate any circumstances which affect the progress or cost of the work. The CONSULTANT is responsible for actively encouraging all reviewers to accomplish reviews promptly. Shop drawings are to also include any manuals or similar documents outlining proposed construction procedures submitted by the Contractor.

2.5.1.17 Provide coordination between the Contractor and utility companies to assure that conflicting utilities are removed, adjusted or protected in-place in a timely manner to minimize delays to construction operations.

2.5.1.18 Conduct and document field reviews of the maintenance of traffic operation after normal working hours, weekends and holidays if maintenance of traffic represents a potential hazard to the public.

2.5.1.19 Perform required survey work to prevent delaying Contractor's operations when requested by the Contract Administrator.

2.5.1.20 When needed to prevent delays in Contractor's operations, produce reports, verify quantity calculations, field measure for payment purposes and/or write communications.

2.5.1.21 Upon identification of a proposed changed condition or construction contract change, the extent of change is to be analyzed and an order of magnitude estimate of cost and time change, if any, is to be prepared. Prior to receipt of the Contractor's estimate, prepare the fair cost estimate.

2.5.1.22 Negotiate all changes with the Contractor using the CONSULTANT's prepared fair cost estimate as a basis.

2.5.1.23 Prepare documentation and records in compliance with the Agreement, justifying all payments to Contractor through the use of surveys, spreadsheets, tracking logs, etc.

2.5.1.24 Provide five high resolution digital photos each month of the entire project site from various views, shot at 500 foot altitude depicting project's progress for the duration of the contract.

2.5.1.25 Submit the Final Documentation, including materials certification and one (1) signed and sealed set of final "as-built plans" documenting the Contractor's work.

2.6 Optional Additional Services

2.6.1 Additional effort necessary and related to the existing scope of work detailed above. Services performed under this task are to be initiated by a separate written authorization from the Contract Administrator.

3.0 PERSONNEL:

3.1 General Requirements:

3.1.1 The CONSULTANT is responsible for providing a sufficient number of qualified personnel as necessary to effectively carry out its responsibilities under this scope and underlying Agreement.

3.1.2 The CONSULTANT is responsible for assigning or removing of personnel within two weeks of receipt of written notification from the COUNTY.

3.2 Personnel Qualifications:

3.2.1 Provide competent personnel qualified by experience and education. Submit in writing to the Contract Administrator the names of personnel proposed for assignment to the project, including a detailed resume for each containing at a minimum: salary, education, and experience. A request for personnel approval is to be submitted to the Contract Administrator at least two weeks prior to the date an individual is to report to work.

3.2.2 Before the project begins, all project staff is to have a working knowledge of the current Florida Department of Transportation Construction Project

Administration Manual and is to possess all the necessary qualifications/certifications for fulfilling the duties of the position they hold.

3.2.3 Minimum qualifications for the Consultant personnel are set forth as follows. Staff utilization to be determined based on contract complexity. Not all positions listed may be required. Exceptions to these minimum qualifications will be reviewed and approved by the Contract Administrator on case by case basis.

3.2.3.1 CEI SENIOR PROJECT ENGINEER - A Civil Engineering degree and registered in the State of Florida as a Professional Engineer (or if registered in another state, the ability to obtain registration in the State of Florida within six months) and six (6) years of engineering experience ((two (2) years of which are in major road construction) or for non-degreed personnel the aforementioned registration and ten (10) years of engineering experience (two (2) years of which are in major road construction). Qualifications include the ability to communicate effectively in English (verbally and in writing); direct highly complex and specialized construction engineering administration and inspection program; plans and organizes the work of subordinate and staff members; develops and/or reviews policies, methods, practices, and procedures; and reviews programs for conformance with Department standards. Also must have the following:

QUALIFICATIONS:

FDOT Advanced MOT

Attend the CTQP Quality Control Manager course and pass the examination.

CERTIFICATIONS: None

OTHER: A Master's Degree in Engineering may be substituted for one (1) year engineering experience.

3.2.3.2 CEI PROJECT ADMINISTRATOR/PROJECT ENGINEER
- A Civil Engineering degree plus two (2) years of engineering experience in construction of major road, or for non-degreed personnel eight (8) years of responsible and related engineering experience, two (2) years of which involved construction of major road. A Project Administrator must have supervised two or more inspectors as well as two or more support staff (Office Manager, Compliance Officer, and Secretary) and must have been directly responsible for all CEI services assigned. Receives general instructions regarding assignments and is expected to exercise initiative and independent judgment in the solution of work problems. Directs and assigns specific tasks to inspectors and assists in all phases of the construction project. Will be for the progress and final estimates throughout the construction project duration. Must have the following:

QUALIFICATIONS:

FDOT Advanced MOT

CTQP Final Estimates Level II

CERTIFICATIONS: None

OTHER: Attend CTQP Quality Control Manager Course and pass the examination. A Master's Degree in Engineering may be substituted for one (1) year of engineering Experience

3.2.3.3 CEI SENIOR INSPECTOR – High school graduate with four (4) years of experience in roadway construction inspection, or a Civil Engineering degree and one (1) year of roadway CEI experience with the ability to earn additional required qualifications within one year.

QUALIFICATIONS:

CTQP Concrete Field Technician Level I
CTQP Asphalt Roadway Level I
CTQP Asphalt Roadway Level II
CTQP Earthwork Construction Inspection Level I
CTQP Earthwork Construction Inspection Level II
Drilled Shaft Inspection (required for inspection of all drilled shafts including miscellaneous structures such as sign structures, lighting structures, and traffic signal structures)
CTQP Grouting Technician Level I
IMSA Traffic Signal Technician Level I
FDOT Intermediate MOT
CTQP Final Estimates Level I
CERTIFICATIONS: Nuclear Radiation Safety

Responsible for performing highly complex technical assignments in field surveying and construction layout, making, and checking engineering computations, inspecting construction work, and conducting field tests and is responsible for coordinating and managing the lower level inspectors. Work is performed under the general supervision of the Project Administrator.

3.2.3.4 CEI INSPECTOR - High school graduate or equivalent plus two (2) years' experience in construction inspection, one (1) year of which shall have been in bridge and/or roadway construction inspection, plus the following:

Must have the following as required by the scope of work of the project:

QUALIFICATIONS:

CTQP Concrete Field Inspector Level I
CTQP Asphalt Roadway Level I
CTQP Earthwork Construction Inspection Level I
CTQP Drilled Shaft Inspection (required for inspection of all drilled shafts including miscellaneous structures such as sign structures, lighting structures, and traffic signal structures)
IMSA Traffic Signal Technician Level I
CTQP Final Estimates Level I
FDOT Intermediate MOT
CERTIFICATIONS: Nuclear Radiation Safety
Florida Stormwater, Erosion, and Sedimentation Control Training and Certification Program for Inspectors and Contractors

Or a Civil Engineering degree with the ability to earn additional required qualifications within one year.

Responsible for performing assignments in assisting Senior Inspector in the performance of their duties. Receive general supervision from the Senior Inspector who reviews work while in progress. Civil Engineering graduates must obtain certifications within the first year of working as an inspector or Engineer Intern. Exceptions will be permitted on a case-by-case basis so long as qualifications and certifications are appropriate for specific inspection duties.

3.2.3.4 CEI SECRETARY/INSPECTOR TRAINEE/RESIDENT COMPLIANCE SPECIALIST - High school graduate or equivalent plus two (2) years of secretarial and/or clerical experience. Ability to type at a rate of 35 correct words per minute. Experienced in the use of standard word processing software. Should exercise independent initiative to help relieve the supervisor of clerical detail. Monitor CBE compliance. Perform data entry into various COUNTY data bases for contract tracking. Work under general supervision of the Senior Project Engineer and staff.

3.3 Staffing:

3.3.1 The CONSULTANT is responsible for being prepared to adequately staff and maintain an appropriate staff after completion of construction to complete the final documentation. Responsible personnel, thoroughly familiar with all aspects of construction and final measurements of the various pay items, are to be available to resolve disputed final pay quantities until the appropriate contract has been paid off.

3.4 Licensing for Equipment Operation:

3.4.1 The CONSULTANT is responsible for obtaining proper licenses for equipment and personnel operating equipment when licenses are required.

3.4.2 Licensing of Surface Moisture Nuclear Density Gauges are to be obtained through the Florida Department of Health, Bureau of Radiation Control. Only Nuclear Density Inspectors approved by the CONSULTANT's Radiation Safety Officer is authorized to operate Surface Moisture Density Gauges. The COUNTY may monitor the activity of the CONSULTANT's Nuclear Density Inspectors.

4.0 PROJECT SCHEDULE

4.1 Time for Performance

4.1.1 The work to be performed under this scope and underlying Agreement for CEI services are to be completed within 600 calendar days from the issuance of the Notice to Proceed. The estimated construction days required to complete the project is 480 days.

**EXHIBIT B
SALARY COSTS (FIELD OFFICE)**

Project No: R2114080P1

Project Title: Construction Engineering and Inspection for Pembroke Road from East of Silver Shores Blvd to Dykes Road

Prime Consultant: New Millennium Engineering, Inc.

TITLE	MAXIMUM HOURLY RATE (\$/HR)	X	MULTIPLIER	=	MAXIMUM BILLING RATE (\$/HR)
CEI Senior Project Engineer /CEI Project Administrator	\$50.00		2.11		\$105.39
CEI Senior Inspector	\$30.61		2.11		\$64.52
CEI Inspector	\$24.16		2.11		\$50.92
CEI Inspector Aide	\$14.00		2.11		\$29.51

Multiplier of 2.11 is calculated as follows:

OVERHEAD = HOURLY RATE X OVERHEAD (38.04%)

FRINGE = HOURLY RATE X FRINGE (53.58%)

OPERATING MARGIN = (HOURLY RATE + OVERHEAD + FRINGE) X OPERATING MARGIN (10%)

MULTIPLIER = (HOURLY RATE + OVERHEAD + FRINGE + OPERATING MARGIN) / HOURLY RATE

**EXHIBIT B
SALARY COSTS (FIELD OFFICE)**

Project No: R2114080P1

Project Title: Construction Engineering and Inspection for Pembroke Road from East of Silver Shores Blvd to Dykes Road

Prime Consultant: New Millennium Engineering, Inc.

Sub-Consultant: Keith and Associates, Inc.

TITLE	MAXIMUM HOURLY RATE (\$/HR)	X	MULTIPLIER	=	MAXIMUM BILLING RATE (\$/HR)
Senior Surveyor	\$41.00		2.50		\$102.31
CADD Tech	\$20.50		2.50		\$51.16
Surveyor Crew-2 Man	\$38.95		2.50		\$97.20

Multplier of 2.5 is calculated as follows:

OVERHEAD = HOURLY RATE X OVERHEAD (92.74%)

FRINGE = HOURLY RATE X FRINGE (34.12%)

OPERATING MARGIN = (HOURLY RATE + OVERHEAD + FRINGE) X OPERATING MARGIN (10%)

MULTIPLIER = (HOURLY RATE + OVERHEAD + FRINGE + OPERATING MARGIN) / HOURLY RATE

**EXHIBIT B-1
DIRECT EXPENSE COST**

Project No: R2114080P1

Project Title: Construction Engineering and Inspection for Pembroke Road from East of Silver Shores Blvd-to Dykes Road

Prime Consultant: New Millennium Engineering, Inc.

	<u>Position</u>	<u>Hours</u>	<u>Maximum Hourly Rate (\$/HR)</u>	<u>FAR Audited Direct Expense Rate</u>	<u>Maximum Direct Expense Cost</u>
	CEI Senior Project Engineer/Project Administrator	2805	\$ 50.00	21.623%	\$ 30,326.26
	CEI Contract Support/CEI Senior Inspector	2805	\$ 30.61	21.623%	\$ 18,565.73
	CEI Inspector	2722	\$ 24.16	21.623%	\$ 14,220.04
	CEI Inspector Aide	2178	\$ 14.00	21.623%	\$ 6,593.29
Total Maximum Reimbursables:					\$ 69,705.32

Notes:

Maximum not to exceed Direct Expense Cost will be paid based on the number of labor hours worked within the invoicing period times the employees actual hourly rate. This cost will include all field office direct expenses.

**EXHIBIT B-2
REIMBURSABLE TESTING AND AERIAL PHOTOGRAPHY COST**

Project No: R2114080P1

Project Title: Construction Engineering and Inspection for Pembroke Road from East of Silver Shores Blvd to Dykes Road

Prime Consultant: New Millennium Engineering, Inc.

Sub Consultant: Universal Engineering Sciences, Inc.

Item #	Description	Unit Cost	Unit	Quantity	Total
	Moisture Density Relationship, Standard or Modified Proctor, AASHTO T-99, ASTM D-698	\$ 85.00	Per Test	18	\$ 1,530.00
	Limerock Bearing Ratio (LBR) FM 5-515	\$ 225.00	Per Test	6	\$ 1,350.00
	Soil Classification ASTM D-422, T-11, T-27	\$ 100.00	Per Test	4	\$ 400.00
	Sieve Analysis (include wash # 20)	\$ 55.00	Per Test	10	\$ 550.00
	Organic Content Tests	\$ 45.00	Per Test	6	\$ 270.00
	Liquid Limit, Plastic Limit, and Plasticity Index AASHTO T-89	\$ 75.00	Per Test	14	\$ 1,050.00
	Cylinders - cast and tested by Laboratory, Standard 4x8 Cylinder, ASTM C-31, C-617	\$ 15.00	Cylinder	200	\$ 3,000.00
	Cross-hole Sonic Logging (CSL) Test	\$ 1,100.00	Shaft	2	\$ 2,200.00
	CSL Reports	\$ 115.00	EA	2	\$ 230.00
Total Universal Engineering Sciences, Inc.:					\$ 10,580.00

Sub Consultant: Construction Testing Inspection, Inc.

Item #	Description	Unit Cost	Unit	Quantity	Total
	Bulk Specific Gravity (FM1, T-166)	\$ 35.41	EA	36	\$ 1,274.76
	Sieve analysis (AASHTO T-27)	\$ 53.34	EA	5	\$ 266.70
	Extraction AC Only, Oven method (FM 5-563)	\$ 113.24	EA	5	\$ 566.20
	Gyratory Compaction (AASHTO T-312)	\$ 206.78	EA	5	\$ 1,033.90
	Maximum Specific Gravity (Rice) (FM 1, T-209)	\$ 129.00	Core	5	\$ 645.00
Total Construction Testing Inspection, Inc.:					\$ 3,786.56

Sub Consultant: Aerial Photography Inc.

Item #	Description	Unit Cost	Unit	Quantity	Total
5.1	Aerial Photo	\$ 107.70	Set of 5 photos	17	\$ 1,830.90
Total Aerial Photography Inc.:					\$ 1,830.90

**EXHIBIT C
SCHEDULE OF SUBCONSULTANTS**

Project No: R2114080P1

Project Title: Construction Engineering and Inspection for Pembroke Road from East of Silver Shores
Blvd to Dykes Road

Prime Consultant: **New Millennium Engineering, Inc.**

No.	<u>Firm Name</u>	Discipline
1.	Keith and Associates, Inc.	Survey
2.	Universal Engineering Sciences, Inc.	Testing
3.	Construction Testing Inspection, Inc.	Testing
4.	Aerial Photography Inc.	Aerial Photography

EXHIBIT D MINIMUM INSURANCE REQUIREMENTS

The following coverage is deemed the minimum insurance required for this project. The selected firm must be prepared to provide proof of insurance commensurate with or in excess of this requirement. Any deviation is subject to the approval of Risk Management.

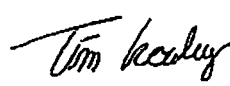
TYPE OF INSURANCE	MINIMUM LIABILITY LIMITS		
		Each Occurrence	Aggregate
COMMERCIAL GENERAL LIABILITY Broad form or equivalent <i>With no exclusions or limitations for:</i> <input checked="" type="checkbox"/> Premises—Operations <input type="checkbox"/> Explosion, Collapse, Underground Hazards <input checked="" type="checkbox"/> Products/Completed Operations Hazard <input checked="" type="checkbox"/> Contractual Insurance <input checked="" type="checkbox"/> Independent Contractors <input checked="" type="checkbox"/> Personal Injury <input type="checkbox"/> Other:	Bodily Injury		
	Property Damage		
	Combined single limit Bodily Injury & Property Damage	\$ 1 mil	\$ 2 mil
	Personal Injury		
BUSINESS AUTO LIABILITY* COMPREHENSIVE FORM <input checked="" type="checkbox"/> Owned *May be waived <input checked="" type="checkbox"/> Hired if no driving will be <input checked="" type="checkbox"/> Non-owned done in performance <input checked="" type="checkbox"/> Scheduled of services. <input checked="" type="checkbox"/> Any Auto	Bodily Injury (each person)		
	Bodily Injury (each accident)		
	Property Damage		
	Combined single limit Bodily Injury & Property Damage	\$ 1 mil	
EXCESS/UMBRELLA LIABILITY <i>May be used to supplement minimum liability coverage requirements.</i>	Follow form basis or Add'l insd endorsement is required		
<input checked="" type="checkbox"/> WORKERS' COMPENSATION <input checked="" type="checkbox"/> EMPLOYERS' LIABILITY	Chapter 440 FS (each accident)	STATUTORY \$ 1 mil	U.S. Longshoremen & Harbor Workers' Act & Jones Act is required for any activities on or about navigable water
<input checked="" type="checkbox"/> PROFESSIONAL LIABILITY ~ E&O	(each accident)	\$ 2 mil	
<input type="checkbox"/> BUILDER'S RISK (PROPERTY) "ALL RISK" WITH WIND AND FLOOD Coverage must remain in force until written final acceptance by County.	Maximum Deductible: \$10 k DED for WIND or WIND & FLOOD not to exceed 5% of completed value CONTRACTOR IS RESPONSIBLE FOR DEDUCTIBLE		Completed Value form
	<input type="checkbox"/> Installation floater Coverage must be "All Risk", completed value. Coverage must remain in force until written final acceptance by County.	Maximum Deductible: \$10 k CONTRACTOR IS RESPONSIBLE FOR DEDUCTIBLE	

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES
 Broward County is listed as an additional insured on the general liability and business automobile liability policies. Waiver of subrogation in favor of Certificate Holder applies to general liability, automobile liability, and workers compensation. INDICATE BID #, RLI, RFP, AND PROJECT MANAGER ON COI.

REFERENCE: CEI Services- Pembroke Rd from Dykes Rd to Silver Shores Blvd

CERTIFICATE HOLDER:
 Broward County and FDOT and City of Miramar and City of Pembroke Pines
 1 N University Drive B300
 Plantation, FL 33324
 Attn: Nirmal Datta-HCED

Digitally signed by TIMOTHY CROWLEY
 DN: dc=ty, dc=broward, dc=bc, ou=Organization, ou=BCC, ou=RM, ou=Users, cn=TIMOTHY CROWLEY
 Date: 2017.03.30 16:12:46 -0400



Risk Management Division