



**AGREEMENT BETWEEN BROWARD COUNTY AND OPTERRA ENERGY SERVICES, INC.
FOR CONSULTANT SERVICES FOR
ENERGY AUDIT AND PERFORMANCE CONSULTANT SERVICES
(PART ONE ENERGY AUDIT)
(RFP # R1243101P1)**

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

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 Facilities Management Division, or Assistant Director of Facilities Management Division, who is the representative of the 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**: Energy Performance Audits performed by the Consultant on County-owned facilities identified in this Agreement or added to this Agreement pursuant to the terms and conditions hereof.

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

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 County funds.

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.

Exhibit A is only for the Feasibility Study and Energy Performance Audit (Part One) and additional negotiations will be required for a subsequent Energy Performance Contract (Part Two) for additional services related to actual physical additions or modifications to the identified facilities.

3.3 During the term of this Agreement, County reserves the right in its sole discretion to add or delete facilities to the Project scope. Should County add facilities, the cost and time for performance shall be determined using Exhibit A, Project Schedule, Attachment 1 and Exhibit B, Investment Grade Audit Cost, Attachment 1.

3.4 Consultant shall pay its subconsultants, subcontractors, and suppliers, 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 subconsultants, subcontractors, or suppliers that it will release such retainage and pay same within fifteen (15) days following receipt of payment of retained amounts from County.

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 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, the 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 the Agreement. The Consultant shall be compensated for the service at the rate in effect when the extension is invoked by the 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 the Agreement.

ARTICLE 5. COMPENSATION AND METHOD OF PAYMENT

5.1 AMOUNT AND METHOD OF COMPENSATION

No fee shall be due the Consultant for preparation of the Feasibility Study.

Payment to the Consultant for the Energy Performance Audit (Part One) is contingent upon the Consultant's Investment Grade Energy Audit Report ("IGA Report") and proposed Energy Conservation Measure ("ECM") package that projects 20-year energy savings resulting from the implementation or installation of the ECMs and shall be equal to or greater than the total projected costs of the design and installation of the recommended ECMs on a facility by facility basis.

The cost of the Energy Performance Audit, IGA Report and ECM package recommended by the Consultant and selected by the County shall not be paid for under this Agreement. The cost for the Energy Performance Audit, IGA Report and ECM package will be included and paid for in a subsequent negotiated Energy Performance Contract (Part 2) ("EPC") if the contingencies set forth in Chapter 489, Florida Statutes, this Article 5, and Exhibit A are satisfied.

However, if the Consultant presents County with an IGA Report and ECM package meeting the above payback criteria and the County does not include the ECMs for a specific County facility into the EPC, then the Consultant can invoice the County within 90 days of the Energy Performance Contract (Part 2) agreement being fully executed by both Parties for its costs associated for developing the IGA Report for the ECM package for that specific County facility. Upon receipt and approval of proper invoicing, the County will pay the Consultant subject to the payment terms specified in this Agreement.

The County will not pay the Consultant any audit fees or expenses for ECMs rejected by the County as a result of the Feasibility Study.

5.1.1 Maximum Amount Not-To-Exceed Compensation. Compensation to Consultant for the performance of Basic Services identified in Exhibit A are payable on a "Maximum Amount Not-To-Exceed" basis shall be based upon the Individual Property Audit Costs as described in Section 5.1.4. 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 Optional Services. Optional Services may be utilized pursuant to Article 6. A Work Authorization for Optional Services shall specify at a minimum the services to be performed, the amount of compensation, and the method of payment, i.e., Maximum Amount Not-To-Exceed, Lump Sum or combination thereof, applicable to that Work Authorization.

5.1.3 Reimbursable Expenses. Reimbursable expenses may be utilized pursuant to Section 5.2. Unused amounts of those monies established for reimbursable expenses shall be retained by County.

5.1.4 Individual Property Audit Cost per square foot. The audit cost, per square foot, payable by the County for each property category is shown on Exhibit B. The Property Audit Cost shall mean the audit cost per square foot for the property type multiplied by the property square footage, shown on Exhibit B1. County shall not pay Consultant any additional sum for reimbursable expenses, additional or optional services, if any, unless otherwise stated in Section 5.2 and Article 6.

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 Exhibit B and Reimbursables defined in Section 5.2. All Subconsultant fees shall be billed in the actual amount paid by Consultant.

5.1.5 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 **REIMBURSABLES.** For reimbursement of any travel costs, travel-related expenses, or other direct nonsalary expenses directly attributable to this Project permitted under this Agreement, Consultant agrees to adhere to Section 112.061, Florida Statutes, except to the extent, if any, that Exhibit B expressly provides to the contrary. County shall not be liable for any such expenses that have not been approved in advance, in writing, by the Contract Administrator. Reimbursable subconsultant expenses are limited as described herein when the subconsultant agreement provides for reimbursable expenses.

5.3 **METHOD OF BILLING**

5.3.1 Subject to the limitations in Section 5.1, above, Consultant invoicing, if any, for services shall be pursuant to the terms and conditions of the Energy Performance Contract (Part Two).

5.3.2 Submit all invoices to AccountsPayable@broward.org with a courtesy copy to fmdpayables@broward.org or mail to Broward County Commission, P. O. Box 14740, Fort Lauderdale, FL 33302-4740.

Where applicable, an invoice must include the items listed below:

- Date of invoice preparation
- Invoice number
- Purchase Order Number that correlates to the County's purchase order number under which the purchase was made
- Name and address of the business/organization cited in the County's purchase order
- Name and telephone number of the person placing the order, and the name of the County agency they work for
- Location where goods or services provided to the County were shipped or location of service
- Shipping method
- Date shipped

- Vendor/Supplier's federal tax identification number
- Contract number and description
- Identify and Itemize each purchase order line with
 - Item ID number or County's part number for each item or part delivered
 - Quantity of the goods or services provided
 - Unit
 - Unit price of the goods or services provided
 - Applicable discounts
 - Extended Price
 - Description of the goods or services provided to the County
- Extended total price of the goods or services provided
- Invoice must be an original invoice
- Each invoice line cannot exceed corresponding purchase order line. A new purchase order will be issued for any additional charges and a separate invoice must be created and submitted for the additional purchase order

One Invoice cannot be submitted for goods or services on multiple purchase orders

5.4 METHOD OF PAYMENT

5.4.1 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.

5.4.2 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.

5.4.3 Payment will be made to Consultant at:

OpTerra Energy Services, Inc.
Attention: Accounts Receivable
12980 Foster Street, 4th Floor

Overland Park, Kansas 66213

**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 5.1.2. 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 Any Work Authorization that will cost County less than Thirty Thousand Dollars (\$30,000.00) may be signed by Contract Administrator and Consultant, using the Work Authorization provided by County for that purpose.

6.4.1.2 Any Work Authorization that will cost County at least Thirty Thousand Dollars (\$30,000.00) but not more than \$100,000.00 may be signed by County's Purchasing Director, and Consultant.

6.4.1.3 Work Authorizations within the Purchasing Director's delegated authority shall be prepared using the Work Authorization Form provided by County for that purpose. Any Work Authorization above the County's Purchasing Director's authority must be approved by Board and shall be prepared using the Work Authorization provided by County for that purpose.

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 approval by Contract Administrator, Purchasing Director, or Board as follows: Contract Administrator shall sign in instances where the cumulative total of the modifications (the amount approved in the original Work Authorization plus the modifications thereto) does not exceed Thirty Thousand Dollars (\$30,000.00). County's Purchasing Director shall sign in instances where the cumulative total of the modifications does not exceed the Purchasing Director's approval authority delegated by Board. Board shall sign in those instances where the cumulative total of the modifications exceeds the Purchasing Director's approval authority. Notwithstanding anything contained in this subsection, Consultant's compensation shall not exceed the amount approved in the Work Authorization unless such additional amount received the prior written approval as outlined above.

6.4.4 All Work Authorizations issued by the Contract Administrator 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 As provided in Section 9.2, 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 Consultant shall maintain at its sole expense, at all times during the term of this Agreement (unless a different time period is otherwise stated herein), at least the minimum

insurance coverage designated in Exhibit D in accordance with the terms and conditions stated in this Article.

8.2 Such policies shall be issued by companies authorized to do business in the State of Florida, with a minimum AM Best financial rating of A-. Coverage shall be provided on forms no more restrictive than the latest edition of the applicable form filed by the Insurance Services Office. Consultant shall name Broward County as an additional insured under the primary and non-contributory Commercial General Liability policy, Business Automobile Liability policy as well as on any Excess Liability policy. The official title of the Certificate Holder is Broward County. This official title shall be used in all insurance documentation.

8.3 Within fifteen (15) days of notification of award, Consultant shall provide to County proof of insurance in the form of Certificate(s) of Insurance and applicable endorsements, Declaration pages, or insurance policies evidencing all insurance required by this Article. County reserves the right to obtain a certified copy of any policies required by the Article upon request. Coverage is not to cease and is to remain in force until the County determines all performance required of Consultant is completed. For Professional Liability Insurance, coverage shall remain in force for two (2) years after the completion of services unless a different time period is stated in Exhibit D. County shall be notified of any restriction or cancellation of coverage within thirty (30) days. If any of the insurance coverage will expire prior to the completion of the work, proof of insurance renewal shall be provided to County upon expiration.

8.4 County reserves the right to review and revise any insurance requirements at the time of renewal or amendment of this Agreement, including, but not limited to, deductibles, limits, coverage, and endorsements.

8.5 If Consultant uses a subconsultant or subcontractor, Consultant shall ensure that each subconsultant or subcontractor names "Broward County" as an additional insured under the subconsultant's or subcontractor's Commercial General Liability, Business Automobile Liability, and Excess/Umbrella policies.

ARTICLE 9. EEO 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 the 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 Subcontractors, 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 of this section of this Agreement. 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 <i>(Part One Energy Audit)</i>	<u>0</u> %
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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 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 8. 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 the Consultant.

9.7 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 Subcontractors and suppliers. 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 the 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 the 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 the 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. The Agreement may also be terminated for cause if the 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 the 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 the 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 of Article 10.

10.3 Public Records. County is a public agency subject to Chapter 119, Florida Statutes. To the extent Consultant is a contractor acting on behalf of the County pursuant to Section 119.0701, Florida Statutes, Consultant and its subconsultants and subcontractors shall:

10.3.1 Keep and maintain public records that ordinarily and necessarily would be required by County in order to perform the service;

10.3.2 Provide the public with access to such public records on the same terms and conditions that County would provide the records and at a cost that does not exceed that provided in Chapter 119, Florida Statutes, or as otherwise provided by law;

10.3.3 Ensure that public records that are exempt or that are confidential and exempt from public record requirements are not disclosed except as authorized by law; and

10.3.4 Meet all requirements for retaining public records and transfer to County, at no cost, all public records in its possession upon termination of the applicable contract and destroy any duplicate public records that are exempt or confidential and exempt. All records stored electronically must be provided to County in a format that is compatible with the information technology systems of County.

The failure of Consultant to comply with the provisions set forth in this Section shall constitute a default and breach of this Agreement, and County shall enforce the default in accordance with the provisions set forth in Section 10.2.

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 the 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 the 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 shall, by written contract, require its Subconsultants and subcontractors 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 the Consultant or its Subconsultants in excess of five percent (5%) of the total contract billings reviewed by County, the reasonable actual cost of the County's audit shall be reimbursed to the County by the Consultant in addition to making adjustments for the overcharges. Any adjustments and/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 paragraph 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 this Agreement and 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. Consultant shall indemnify and hold harmless County, its officers and employees from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness or intentionally wrongful conduct of Consultant, and 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. 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.

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:

Director of Facilities Management Division, Contract Administrator
Governmental Center, Room 501
115 South Andrews Avenue
Fort Lauderdale, Florida 33301

FOR CONSULTANT:

Deron Gunderman, Chief Legal Officer
12980 Foster Street, 4th Floor
Overland Park, Kansas 66213

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 information supplied, including without limitation in the negotiation of this Agreement, is accurate, complete, and current at the time of contracting. County shall be entitled to recover any damages it incurs to the extent 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 Procurement 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 Procurement 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 Subcontractors to perform any services required by this Agreement, Consultant shall require such Subcontractors, 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

the 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. The attached Exhibits A, B, C, C-1, and D 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. Except as required by the Broward County Prompt Payment Ordinance, County shall not be liable for interest 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 based on or related to this Agreement.

10.29.2. Rate of Interest. In any instance where the prohibition or limitations of the preceding subsection are determined to be invalid or unenforceable, the annual rate of interest payable by County under this Agreement, whether as prejudgment interest or for any other purpose, shall be .025 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 Public Art And Design. Consultant acknowledges that Broward County adopted Ordinance No. 95-20 establishing a Public Art and Design Program. The purpose of Ordinance No. 95-20 is to integrate art into capital projects and to integrate artists' design concepts into the overall project design. Artist(s) are selected by Broward County through an independent process and artist(s) will be funded by the Public Art and Design Program administered by the Broward County Cultural Affairs Division at the direction of the Broward Cultural Affairs Council through its Public Art and Design Committee.

Consultant shall cooperate with the artist(s) and include the artist(s) in the preliminary design and design phases of the Project for the purpose of properly incorporating the artist's design(s) into the design of the Project. Consultant shall notify the artist(s), in writing, of all design meetings and shall provide the artist(s) with a schedule of milestone dates. Consultant may be requested to provide work space for the artist(s) during the preliminary design and design phases. The artist's design as properly incorporated into the design of the Project shall be permitted as part of the master site or facility plan.

Consultant's compensation pursuant to this Agreement includes the services to comply with the requirements set forth in this section whether or not the compensation is specifically designated or identified.

Consultant shall ensure that subconsultants, if any, will be made aware of Broward County's Public Art and Design Program and the possible requirement of working with the artist(s).

10.33 Domestic Partnership Requirement. Consultant certifies and represents that it will comply with County's Domestic Partnership Act (Section 16½-157 of the Broward County Code of Ordinances, as amended) during the entire term of the Agreement. The failure of Consultant to comply shall be a material breach of the Agreement, entitling County to pursue any and all remedies provided under applicable law including, but not limited to (1) retaining all monies due or to become due Consultant until Consultant complies; (2) termination of the Agreement; and (3) suspension or debarment of Consultant from doing business with County.

10.34 Workforce Investment Program. This Agreement constitutes a "Covered Contract" under the Broward Workforce Investment Program, Broward County Administrative Code Section 19.211 ("Workforce Investment Program"). Consultant affirms it is aware of the requirements of the Workforce Investment Program and agrees to use good faith efforts to meet the First Source Referral Goal and the Qualifying New Hires Goal as set forth therein, including by (a) publicly advertising any vacancies that are the direct result of this Agreement

(whether those vacancies are with Consultant or its subconsultants) exclusively with CareerSource Broward for at least five (5) business days and using good faith efforts to interview any qualified candidates referred under the Workforce Investment Program, and (b) using good faith efforts to hire Qualifying New Hires, as defined by the Workforce Investment Program, for at least fifty percent (50%) of the vacancies that are the direct result of this Agreement. Until at least one year after the conclusion of this Agreement, Consultant shall maintain and make available to County upon request all records documenting Consultant's compliance with the requirements of the Workforce Investment Program, and shall submit the required Workforce Investment Reports to the Contract Administrator annually by January 31 and within thirty (30) days after the conclusion of this Agreement. Failure to demonstrate good faith efforts to meet the First Source Referral Goal and the Qualifying New Hires Goal shall constitute a material breach of this Agreement.

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

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature: 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 23rd day of May, 2017, and CONSULTANT, signing by and through its vice President, duly authorized to execute same.

County

ATTEST:


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

BROWARD COUNTY, by and through its
Board of County Commissioners

BY 
Mayor

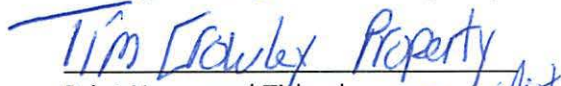
23rd day of May, 2017.

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

Insurance requirements
Approved by Broward County
Risk Management Division

By  4/24/17
Signature (Date)

By  4/25/17
Michael J. Kerr (Date)
Deputy County Attorney


Print Name and Title above Property Specialist

ABC/wp
H:\Projects\Energy Performance\Agreement\OpTerra



**AGREEMENT BETWEEN BROWARD COUNTY AND OPTERRA ENERGY SERVICES, INC. FOR
CONSULTANT SERVICES FOR ENERGY AUDIT AND PERFORMANCE CONSULTANT SERVICES
(PART ONE ENERGY AUDIT) (RFP # R1243101P1)**

CONSULTANT

ATTEST:



Regulatory Officer
Derron D. Gunderman
(Please Type Name of Officer)

CORPORATE SEAL

OpTerra Energy Services, Inc.
By 

Vice President
Scott Johnson

Vice President
18th day of April, 2017.

THE PARTIES HERETO HAVE AGREED TO THE FOLLOWING TERMS AND CONDITIONS:

ARTICLE I

1.1. The Parties have agreed to the following terms and conditions:

1.2. The Parties have agreed to the following terms and conditions:

1.3. The Parties have agreed to the following terms and conditions:

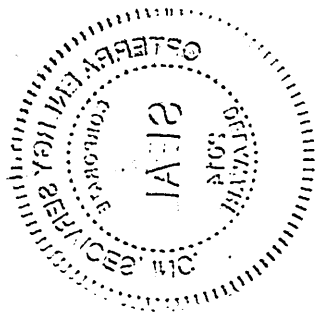


EXHIBIT A SCOPE OF WORK

1.01 Project Description and Program

1.01.01 The following paragraphs form a general description of the professional services required for the Energy Performance Audit (Part One). As such, it is not all inclusive and County does not represent that it is a complete description of all the professional services necessary to perform. The following paragraphs represent County's minimum level of performance but do not limit the professional services that may be required during any project phase described herein.

1.01.02 Energy Audit

The Consultant will perform Energy Performance Audits and prepare an Investment Grade Energy Audit Report ("IGA Report") that specifically identifies Energy Conservation Measures ("ECM") (energy improvements and operational changes) which are recommended to be installed or implemented at County Facilities identified in Exhibit A, Attachment 5. The Report shall contain detailed projections of energy and cost savings to be obtained at each Facility as a result of the installation or implementation of the recommended ECMs. The savings calculations must utilize assumptions, projections and baselines which best represent the true value of future energy or operational savings for each Facility (i.e., accurate marginal cost for each unit of savings at the time the audit is performed; documented material and operational costs actually avoided; adjustments to the baseline to reflect current conditions at each Facility compared to the historic base period; calculations which account for the interactive effects of the recommended ECMs). The Report shall clearly describe how utility tariffs were used to calculate savings for all ECMs. The Report shall describe the Consultant's plan for installing or implementing the ECMs in Facility, including all anticipated costs associated with such installation and implementation. The primary purpose of the Report is to provide an engineering and economic basis for negotiating an Energy Performance Contract (Part Two).

The Consultant shall complete the following tasks in performing the Energy Performance Audit and preparing the Report:

(A) Feasibility Study

Prior to beginning the Energy Performance Audit, the Consultant shall have thirty (30) days from the written authorization from the Contract Administrator to complete a Feasibility Study on the Facilities listed in Exhibit B1. The Feasibility Study shall include a preliminary list of recommended Energy Conservation Measures ("ECM's") to be implemented or installed by the Consultant, a recommended list of facilities that warrant Baseline Modeling, as well as the

preliminary estimate of simple payback resulting from implementation or installation of the ECM's on a facility by facility basis. The Consultant and the County shall meet within fourteen (14) days of County's receipt of the Feasibility Study to agree on a final scope for the IGA Report.

The Feasibility Study will consider:

- 1) **Energy Use Analysis:** A basic energy audit that involves an analysis of historic energy use and costs. Typically energy use will be benchmarked or compared against similar buildings to determine if further engineering study and analysis are likely to produce significant energy savings.
- 2) **ASHRAE Level 1 - Walk-Through Analysis:** This analysis will involve interviews with select facility staff, a review of operating data and a walk through of the facility. The goal is to identify glaring areas of energy waste or inefficiency. The data is compiled and used to complete a preliminary report detailing low-cost/no-cost measures and potential capital improvements for further study in subsequent audits. This level of detail is adequate for prioritizing energy efficiency projects and to assess whether a more detailed audit is necessary.

For the Feasibility Study the Energy Use Analysis and Walk-Through Analysis will be completed in tandem.

Based on the Feasibility Study the Consultant will present to the County a Preliminary Energy Performance report outlining all ECMs with a potential payback period of at least 20 years. The County will review the report and determine, at its sole discretion, ECMs that it wants the Consultant to include in the final energy performance audit.

(B) Collect General Facility(s) Information

The Consultant shall collect general Facility(s) information such as: size, age, construction type, condition and general use of the Facility(s). The Consultant shall also collect and summarize Facility(s) utility cost and consumption data for the most recent 24-36 month period. The Consultant shall evaluate the impact on utility cost and consumption of any energy initiatives currently being installed or currently planned to be installed by the County in the Facility(s) which will remain separate from the Energy Performance Contract throughout the duration of that agreement.

The County shall make available (or cause to make available) all available records and data concerning energy and water usage for the Facility(s) for the most current 24-36 month period, including: Utility records; occupancy information;

descriptions of any changes in the structure of the Facility(s) or its heating, cooling, lighting or other systems or energy requirements; descriptions of all major energy and water consuming or energy and water saving equipment used in the Facility(s); any comfort problems, code deficiencies, health and safety deficiencies, and description of energy management procedures presently utilized. The County shall also make available a record of any energy related improvements or modifications that have been installed during the past three years, or are currently being installed or are currently planned to be installed by the County in the Facility(s) separate from the energy service agreement. The County will also make available electronic copies of drawings, equipment logs and maintenance work orders to The Consultant if in its possession.

(C) Analyze Existing Systems and Equipment

The Consultant shall compile an analysis based on a physical inspection of the major electrical and mechanical systems at the Facility(s), including:

- 1) Cooling systems and related equipment
- 2) Heating and heat distribution systems
- 3) Automatic temperature control systems and equipment
- 4) Air distribution systems and equipment
- 5) Outdoor ventilation systems and equipment
- 6) Kitchen and associated dining room equipment, if applicable
- 7) Exhaust systems and equipment
- 8) Hot water systems
- 9) Electric motors 5 HP and above, transmission and drive systems
- 10) Interior and exterior lighting
- 11) Laundry systems, if applicable
- 12) Building Envelope
- 13) Water consumption end uses, such as restroom fixtures, water fountains, irrigation, etc.
- 14) Street and parking area lighting, if applicable
- 15) Water distribution and treatment systems, if applicable
- 16) Plant operational saving; waste recovery, avoided disposal costs, if applicable
- 17) Compressed air systems, if applicable
- 18) Electricity distribution systems, if applicable
- 19) Vehicle repair and maintenance systems, if applicable
- 20) Demand management improvements, if applicable
- 21) Fuel conversion, if applicable and available
- 22) Alternative energy sources
- 23) Co and Tri- Generation, if applicable
- 24) Other major energy using systems, if applicable

The analysis shall address the following considerations:

- 1) The loads, efficiencies or hours of operation for each system. Where Facility(s) operating or climatic conditions necessitate, engineering estimates may be used, but for large fluctuating loads with high potential savings appropriate measurements are required; and
- 2) Current operating condition, appropriate sizing and remaining useful service life for each system, as applicable; and
- 3) Equipment coverage under an existing repair, preventative maintenance or optimization contract.
- 4) Potential hazardous material and other environmental concerns discovered while performing the project scope

Proposed energy conservation measures and alternative energy sources should obtain consistent levels of occupant comfort and system functionality, including climate and lighting systems. Proposed energy conservation measures must place importance on savings based on energy use reductions, ability to incorporate alternative energy technologies, reduce carbon and other Green House Gas (GHG) emissions along with the capture of environmental benefits such as hazardous material disposal.

The Consultant shall warrant that none of the energy conservation measures it proposes to implement will cause the deterioration of indoor air quality in any County facility.

The Consultant shall conduct interviews with Facility(s) operation and maintenance staff regarding the Facility(s)'s mechanical systems operation, occupancy patterns and problems with comfort levels or equipment reliability.

(D) Establish Base Year Consumption and Reconcile with End Use Consumption Estimates

The Consultant may, upon recommendation by the County, analyze loading, usage and/or hours of operation for all major end uses representing more than 5% of total Facility(s) consumption including, but not limited to:

- 1) Lighting
- 2) Heating
- 3) Cooling
- 4) HVAC motors (fans and pumps)
- 5) Plug load

- 6) Kitchen equipment
- 7) Other equipment
- 8) Miscellaneous

Where loading and/or usage are highly uncertain, The Consultant shall employ spot measurement and/or short term monitoring at its discretion, or at the request of the County. Reasonable applications of measurement typically include variable loads that are likely candidates for conservation measures, such as cooling equipment. The Consultant shall consult with Facility(s) staff and account for any unusual or anomalous utility bills which may skew Base Year consumption from a reasonable representation.

Energy Baseline and Baseline Model Development: An energy baseline is a reference tool. It allows you to compare energy performance before and after a change is made to your site or system. The baseline establishes the “before” by capturing a site or system’s total energy use prior to making improvements. It accounts for energy affecting factors like temperature or production volume. This is accomplished by modeling the site’s performance prior to changes, typically employing a statistical technique called linear regression.

For those facilities determined to warrant a Baseline Model during the Feasibility Study, the Consultant shall develop the County’s Baseline Model as part of the Audit. The Consultant and the County shall mutually agree on the Baseline Model prior to final contract approval by the County. The Baseline Model shall represent pre-existing energy consumption for all end uses within the building(s), not just those end uses affected by The Consultant’s proposed Conservation Measures.

The Baseline Model shall be developed with a whole-building simulation approach using one of the following commercially-available energy simulation software packages:

- Carrier HAP
- Trane TRACE
- Elite (EZDOE)
- DOE-2 and variations (requires prior County approval)

The Consultant shall use the same energy simulation software to develop the projected energy cost savings that was used to develop the Baseline. Projected energy consumption must be modeled using the same weather data and operating conditions as the established Baseline model.

The Baseline Model shall reflect all energy-related effects of the current design features of the building(s) such as, but not limited to, quantity and type of glass,

building orientation with respect to the physical site, overall wall and roof thermal resistance values, ventilation air requirements, humidity level, occupancy, and actual operating schedules. The Baseline Model shall incorporate the energy-related effects of all renovations and/or modifications to the building envelope, internal spaces, and energy-consuming systems subsequent to the date of original construction.

The Baseline Model shall be developed in accordance with recommendations and methods promulgated by professional societies and governmental organizations such as:

- *The Federal Energy Management Program's M&V Guidelines: Measurement and Verification for Federal Energy Management Projects v.3.0*
- *The American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE)*

Baseline Calibration: The Baseline Model shall be developed and calibrated with the assistance of utility bill data for no less than the immediately preceding 24-month period in order to develop an energy baseline model that is suitable for County consideration. A detailed description of all existing Baseline conditions, development methods, calibration procedures, adjustments, and assumptions for each building must be provided.

(E) Develop List of Potential ECMs

The Consultant shall:

- 1) Identify and propose potential ECMs for installation or implementation at the Facility(s), including water conservation measures
- 2) Estimate the cost, savings and life expectancy of each proposed ECM; specify Facility(s) operations and maintenance procedures which will be affected by the installation/implementation of the proposed ECMs;
- 3) Provide analysis methodology, supporting calculations and assumptions used to estimate savings, which shall be based on the life cycle cost calculations described in section 255.255 of the Florida Statutes.
- 4) Identify applicable funding sources; grants, utility incentives and /or rebates etc., for each of the proposed potential ECM's. Although the County may choose to finance some of the initial capital costs and/or reduce the financing amount by grants, rebates, or incentives, pursuant to Florida Statute 489.145 (4)(j), grants, rebates, or capital funding shall

not be applied to life cycle cost calculations. Where applicable, The Consultant will provide mandatory reporting for any corresponding grants, rebates, incentives and or financing pursued in the implementation of the Energy Performance Contract.

- 5) Provide a life cycle cost analysis of at least three (3) alternate system/equipment schemes for potential ECMs that involve replacing major energy-consuming equipment in accordance with the *Florida Energy Modeling Program (FEMP)*.
- 6) Calculate projected energy cost savings as the difference between Baseline energy costs and the costs that are expected to result from the proposed ECMs.
- 7) Provide access to the computer simulation program and all inputs and assumptions used.
- 8) Provide a preliminary commissioning plan for the proposed ECMs.
- 9) Provide detailed calculations for any rate savings proposals.
- 10) Provide detailed supporting calculations for any proposed maintenance or other operational savings and identify coverage by an existing repair, maintenance or optimization contract if applicable.
- 11) Estimate any environmental costs or benefits of the proposed ECMs (e.g., disposal costs, avoided emissions, water conservation, waste reduction, etc.).
- 12) Comply with all applicable state, federal and local codes and regulations in effect at the time of this analysis for all proposed ECMs.

(F) Recommended Final ECMs

The Consultant shall, in consultation with the County, recommend specific ECMs from its compilation for installation and implementation at the Facility(s). The County will be responsible for the cost of audits of proposed ECMs rejected by the County due to not satisfying the contingencies set forth in Chapter 489, Florida Statutes, Article 5, and Exhibit A.

(G) Establish Measurement & Verification Methods

Measurement & Verification of cost savings shall be performed using a methodology from *The Federal Energy Management Program's M&V Guidelines*:

Measurement and Verification for Federal Energy Management Projects v.3.0 and account for actual savings as required in § 489.145(3)(d)(2) Florida Statutes. Actual savings are to be measured against the Baseline in The Consultant's Annual Reconciliation. The Consultant shall state which of the following Measurement & Verification methods will be used in The Consultant's Annual Reconciliation:

- 1) Method A: Stipulated savings from maintenance or outside contracts shall show the origin and signed agreement of acceptance by the County.
- 2) Methods B, C, and D: Only verifiable data will be accepted. Degree Day and related data sources shall be identified and agreed to in the audit document.
- 3) All Measurement & Verification Methods: The Auditor and County shall agree to the exact Measurement & Verification method for each audit on an individual CM basis and stipulate it in the Audit.
- 4) Each Audit: Each audit shall include the names of the Auditor, County, and review person(s) as well as the phone number, email address, and credentials of each team member.

(H) Provide Cost and Fee Estimates

The Consultant shall provide detailed estimates of all costs and fees associated with the installation and implementation of the ECMs including:

- 1) Investment Grade Audit cost.
- 2) Engineering/design costs for individual ECMs.
- 3) Contractor/vendor estimates for individual ECM material and labor unit costs.
- 4) Company construction management fees for the project.
- 5) Overhead and profit.
- 6) Commissioning costs for individual ECMs.
- 7) Contingency costs.
- 8) Initial training costs.
- 9) Annual service fees including:
 - a. Measurement and verification
 - b. Maintenance
 - c. Performance monitoring
 - d. Ongoing training services
- 10) Other costs/fee (specify)

(I) Develop Savings Estimates

The County has endeavored to provide The Consultant with sufficient general and specific guidance in this Article 1 to develop the savings estimates for the Report. In the event that questions arise as to the calculation of savings or whether certain items will be allowed as savings, The Consultant shall seek written guidance from the County. County's rejection of certain calculations of savings or rejection of certain items as allowable savings in the Report shall be at the risk of The Consultant.

The following items will be allowed as savings or in the development of savings:¹

- 1) County material/commodity cost
- 2) Outside maintenance labor cost (if applicable)
- 3) Agreed escalation rates for natural gas
- 4) Agreed escalation rates for electricity
- 5) Agreed escalation rates for water -
- 6) Agreed escalation rates for material/commodity cost savings
- 7) Agreed escalation rates for allowable labor savings

The following items will not be allowed as savings or in the development of savings without prior County approval:

- 1) County in-house labor cost
- 2) County deferred maintenance cost
- 3) Offset of future County capital cost

(J) Deliver the Report

The Consultant shall complete and deliver a report of the Facilities Grouping to the county by one-hundred twenty (120) calendar days from the effective date of the issuance of Work Authorization, in the following format:

- 1) An executive summary which describes the Facility(s), ECMs evaluated, analysis methodology, results and a summary table presenting the cost and savings estimates for each ECM.
- 2) A discussion of ECMs not evaluated in detail and the explanation of why a detailed analysis was not performed.
- 3) A discussion of ECM's that are within the current scope of services provided by existing maintenance and repair contracts.

- 4) A summary of all utility bills, Base Year consumption and how it was established, and end use reconciliation with respect to the Base Year including a discussion of any unusual characteristics and findings.
- 5) Detailed descriptions for each ECM including analysis method, supporting calculations (may be submitted in appendices), results, proposed equipment and implementation issues.
- 6) Conclusions, observations and caveats regarding cost and savings estimates.
- 7) Thorough appendices which document the data relied upon to prepare the analysis and how that data was collected. At minimum, the Report must include Sections A, B, E and F to the potential Energy Performance Contract and listed below.

The Report shall be submitted using 8½ " x 11" sheets of recycled-content paper and a font size no smaller than 10 point. The pages shall be numbered sequentially, include a Table of Contents and tabbed with the visible titles of corresponding Schedules and Appendices.

The Report for each grouping shall include the presentation of information in the following sections required for the potential Energy Performance Contract to the extent the information has been developed during the course of performing the investment grade audit. Preliminary information and incomplete sections will be finalized during negotiations prior to execution of any Energy Performance Contract.

SECTIONS;

- SECTION A. Conservation Measures to Be Installed by Company & Description of Facilities
 - SECTION B. Pre-existing Equipment Inventory
 - SECTION C. Savings Guarantee
 - SECTION D. Compensation to Company and Deliverables
 - SECTION E. Compensation and Deliverables Required in Other Related Contracts
 - SECTION F. Savings Calculation Formula
 - SECTION G. Construction and Installation Schedule
 - SECTION H. Baseline
 - SECTION I. Standards of Comfort
-

SECTION J.	Counties Maintenance Responsibilities
SECTION K.	The Consultant Maintenance Responsibilities and Training
SECTION L.	Financing Agreement
SECTION M.	Performance Bond
SECTION N.	Certificate of Acceptance Investment Grade Energy Audit
SECTION O.	Projected Cash Flow
SECTION P.	City Certificate of Acceptance of Completed ECMs
SECTION Q.	Equipment Warranties
SECTION R.	Unconditional Corporate Guarantee
SECTION S.	Specification of a Benchmark Cost of Capital, Minimum Rate of Return
SECTION T.	Document Supporting Recurring Funds Requirement
SECTION U.	Approval by County Commission
SECTION V.	Measurement & Verification Plan to Monitor Cost Savings

APPENDICES;

Appendix A. Investment Grade Energy Audit

Acceptance of the Report by the County if ECMs are Feasible. The County shall conduct and complete a technical review within sixty (60) days of its receipt of the Report, unless otherwise stated in Attachment A. The County shall accept the Report if the recommended ECMs are feasible and the projected energy cost savings are equal to or greater than the total projected costs of the design and installation of the recommended ECMs. If the County determines that one or more of the recommended ECMs is not feasible, the County shall give The Consultant written notice of any and all said objections, in detail, within fourteen (14) days after completing its technical review of the Report. The Consultant shall correct the Report and submit a revised draft within twenty-one (21) days of said notification. The County shall have fourteen (14) days from receipt of the revised Report to notify The Consultant if any objections have not been corrected. This re-submission process shall continue until (1) the date all material concerns are resolved and the Report is accepted, or (2) the dispute is otherwise resolved.

(K) The Project Sites are listed in:

**EXHIBIT A, SCOPE OF WORK
ATTACHMENT 5: GROUP COMPLEXES**

1.01.03 Not Used

2.01 Basic Services

2.01.01 The services listed below, in addition to those specified by Consultant's agreement with County, are related to the specific project or other professional services as necessary to meet the needs of Broward County.

2.01.02 The listed services below shall not limit those activities or services that may be requested by the Contract Administrator.

3.01 Not Used

3.02 Predesign Phase:

The following Site Identification and Acquisition Services as described below in Article 3.02.01

Are ***Are Not a part of this Agreement's Basic Services.***

3.02.01 Consultant shall confer with representatives of the Contract Administrator to verify and confirm the scope of Predesign Services (Site Acquisition and Programming related services) required for the Project; which shall include:

- (A) Establishing a listing of Contract Administrator, Using Agency and other representatives who will be providing information or feedback to Consultant during the programming process. Include in this listing the Representative's name, title, organization, address, phone, fax and e-mail address. Consultant shall periodically review, update and distribute this list throughout this and subsequent Project phases.
- (B) Establishing and verifying a chain of responsibility or decision making in County's project and functional organizations for use in later decision making during the programming process and subsequent design phases.
- (C) Determining whether the Contract Administrator will provide a partial program for tenant occupied spaces and obtaining such program(s) for Consultant's use and integration into a single programming document for the entire project.
- (D) Obtaining and mobilizing any facilities consultant(s) or other specialists to provide technical or functional information necessary to develop the programming documents.
- (E) Developing and implementing user surveys, personal and group interviews, focus groups and other information gathering techniques necessary to establish and verify functional and spatial relationships, work flow and other related criteria.

- (F) Obtaining, verifying and further developing the Contract Administrator's preliminary list of building functions and spaces.
- (G) Obtaining, verifying and further developing the Contract Administrator's preliminary list of equipment and furnishings including any special equipment, special furnishings or equipment/furnishings that require custom fabrication or unique installation.
- (H) Obtaining, verifying and further developing the Contract Administrator's preliminary list of "County supplied materials" (including furniture and equipment items), construction or related work to be performed by County, and any salvage items projected to be retained by County.
- (I) Obtaining, verifying and further developing the Contract Administrator's building construction and operating cost estimates.
- (J) Obtaining County's applicable space standards for use on subsequent programming tasks.
- (K) Obtaining County's projected staffing (by position description, title and grade) for use in determining functional space allocations based upon staff assignments and related County space standards where applicable.

The following Site Identification and Acquisition Services as described below in Article 3.02.02

Are **Are Not a part of this Agreement's Basic Services.**

3.02.02 Site Identification and Acquisition Services: Consultant shall assist in the Contract Administrator's identification and acquisition of a project site for the facilities and improvements envisioned by County. Timely for the Contract Administrator's use in analyzing and comparing potential project sites, Consultant shall provide a comparative analysis of proposed project site(s) comprised of:

- (A) Documentation of all ownership and legal information including Title Deeds and Limitations or Covenants, Developer's Agreements and Legal Descriptions.
- (B) Copies of Plat(s) including all Notes, access points, easements, and other site information pertinent to the Plat(s).
- (C) A Site Survey in electronic and hard copy formats.
- (D) Copies of executed Environmental Reports as required for the project. Include air, water, groundwater, wetlands, asbestos, PVC's and other HazMat conditions, archaeological/cultural resources, wildlife and other natural resources.

- (E) Copies of Geotechnical Data related to the site: Geotechnical Report, Soil Boring Report and Soils Analysis.
- (F) Documentation of vegetation characteristics of the site in the form of a Tree Survey.
- (G) Documentation of on- and off-site utilities, including but not limited to:
 - 1) Water
 - 2) Sanitary Sewer
 - 3) Storm Drainage
 - 4) Power
 - 5) Fire Protection
 - 6) Telecommunications
 - 7) Networking
 - 8) TV/Satellite/Radio Transmission/Reception Systems
 - 9) Security and Alarm
 - 10) EMS
- (H) Documentation of any existing structures and/or site improvements.
 - 1) Locations on Survey
 - 2) Photographic record
 - 3) Inventory Lists
 - 4) Original as-built documentation from prior/current owner, originating architect or engineer, municipal/county records, or other record source.
- (I) Documentation of critical adjacencies:
 - 1) Neighboring Properties
 - 2) Key "vicinity" improvements and resources
 - 3) Roads and transportation network (including both vehicular and pedestrian access)
 - 4) Other Pending Projects in neighborhood (Public and Private)
- (J) Photographic Site Documentation including:
 - 1) Still Photography (including site panoramas, aerial photographs, walking tour documentation)
 - 2) Video Photography
 - 3) Digital Imagery (Conversion of still and video photography to digital format plus original digital media)
 - 4) Photographs and written documentation, sketches, notes or reports to confirm and record the general condition of the existing site with particular attention to the following building/site elements as appropriate to the Project:
 - a. All above ceiling areas.
 - b. Power supplies, switch gear, breaker panels, and transformers.

- c. Major components of existing HVAC systems including chillers, cooling towers, air handling units, and primary ductwork runs.
 - d. Roofing, waterproofing and building envelope systems.
 - e. Site drainage systems and water retention characteristics.
 - f. Site vegetation, appurtenances, existing site improvements and access points from adjacent streets.
 - g. Adjacent properties and those facing the project site across streets or other roadways.
 - h. On site structures requiring demolition or other “unauthorized” use of the site by third parties which require removal (and/or other disposition) prior to commencement of work on the Site.
- (K) Preliminary Municipal Research and Coordination including:
- 1) Preliminary Zoning Requirements
 - 2) Site Plan Approval Process
 - 3) Preliminary Building Code Requirements
 - 4) Building Department Process
 - 5) Permitting Requirements
 - 6) Other Agency Coordination
- (L) A preliminary projection of project requirements for special consultants, testing agencies, and other specialists as necessary for predesign and programming activities as well as design and construction support to include
- 1) Surveyors
 - 2) Geotechnical Consultants
 - 3) Environmental Consultants
 - 4) Cost Estimators
 - 5) Scheduling Consultants
 - 6) Material Testing Laboratories
 - 7) Security Consultant
 - 8) Other Specialists and/or Design Professionals
- (M) Documentation of the Site(s) External Restraints on Building Area, Shape and Height
- 1) Total lot dimensions and area.
 - 2) Usable lot area.
 - 3) Setback restrictions.
 - 4) Other zoning restrictions.
 - 5) Deed covenants, easements, and right-of-ways.
 - 6) Existing construction.
 - 7) Solar orientation.
 - 8) Building shadow restrictions.
 - 9) Required public spaces.
 - 10) Views.

11) General Topography and Drainage Characteristics.

- (N) A comparison of the respective sites under consideration by County with an inventory of positive and negative aspects of each site and a recommendation concerning the optimum site for County's acquisition and development.

Programming Option 1

The following optional Programming Services as described below in Articles 3.02.03 through 3.02.06

Are **Are Not a part of this Agreement's Basic Services.**

- 3.02.03 Consultant shall develop and submit space requirements and program to establish the following detailed requirements for the Project: design objectives, limitations and criteria; spatial and functional relationships; functional responsibilities of personnel; flexibility and expandability; and special equipment and systems.
- 3.02.04 Consultant shall develop and submit the program's description of occupancy needs and spatial allocation by coordinating with County Staff (including building user groups and others as necessary) and:
- (A) Establishing criteria for importance of room functions and relationships.
 - (B) Creating a Spatial Interaction Matrix (list of departments, divisions or offices or other suitable subdivision that shows their relationship to others).
 - (C) Creating room by room spatial interaction diagrams showing all room relationships.
 - (D) Identifying numerical ratings of the importance of relationships of each room to other rooms.
 - (E) Making link and node diagrams to show departmental and room relationships identified in the interaction matrices.
 - (F) Making bubble diagrams indicating spaces with relationships and their importance rankings.
 - (G) Manipulating bubble diagrams until link crossovers (plan conflicts) are eliminated.

- (H) Creating horizontal and vertical diagrammatic block plans with relative spatial requirements with identification of all rooms, corridors, and vertical circulation and exit analysis.
 - (I) Determine preliminary structural, mechanical, and other engineering systems.
 - (J) Developing and documenting relative spatial areas for all departments, rooms; mechanical, vertical transportation; service, exit stairs and corridors; and horizontal circulation.
- 3.02.05 Consultant shall develop and submit space and flow diagrams consisting of diagrammatic studies and pertinent descriptive text for: internal functions; human, vehicular and material flow patterns; site requirements; general space allocations; adjacency and material handling.
- 3.02.06 Consultant shall develop and submit the program's description of site development criteria, building configuration, construction, and material standards by:
- (A) Listing required or optional provisions for phased construction and future additions.
 - (B) Identifying property building line limitations to estimate ground level building areas.
 - (C) Listing required or optional provisions for phased construction and future additions.
 - (D) Verifying and documenting site zoning or other restrictions such as building heights, setbacks, etc.
 - (E) Identifying orientation considerations for solar, views, street access, etc.
 - (F) Identifying options of numbers of building stories and total height based on estimated floor plan areas and overall occupancy.
 - (G) Estimating size(s) of core area(s) required for:
 - 1) Mechanical services.
 - 2) Electrical services.
 - 3) Vertical transportation.
 - 4) Stair/smoke towers.
 - (H) Estimating and documenting structural spans required to-suit room spatial needs.

- (I) Identifying options of building configuration based on functions, occupancies, site limitations, orientation, height, spans and structural system.
- (J) Identifying and documenting building cladding and fenestration suited to construction, structural, functional, and cost considerations.
- (K) Identifying and documenting interior partitioning, flooring, and ceiling systems suited to construction, structural, functional, and cost considerations.
- (L) Identifying and documenting any "Contract Administrator Preferences" for interior and exterior construction types, space planning, site planning, space functionalities, building systems and assemblies, room types, building envelopes, and maintenance and operational considerations.
- (M) Identifying and documenting any neighborhood, sociological or demographic influences that will impact the facilities design and operation.
- (N) Identifying and documenting goals for integrating public art into the project.

(End of Programming Option 1)

Programming Option 2

The following optional Programming Services as described below in Articles 3.02.03 through 3.02.06

Are Are Not a part of this Agreement's Basic Services.

- 3.02.03 Consultant shall provide an in-depth review and confirmation of the preliminary architectural program attached to this Scope of Services as Attachment 3. Consultant's services shall culminate in Consultant's submittal of a comprehensive programming document comprised of both electronic and hardcopy formats edited to include the design goals and criteria for both the building and the project's specific site.
- 3.02.04 Consultant shall conduct a series of interviews, facilitated by the Contract Administrator, with the responsible using agency and other building users. Through these interviews, observations and other independent research, Consultant shall verify space requirements and program goals presented in the preliminary architectural program. Consultant shall refine the preliminary program to reflect the results of that verification and shall provide a finalized, detailed set of goals and requirements for the Project including design objectives, limitations and criteria; spatial and functional relationships; functional responsibilities of personnel;

flexibility and expandability; special equipment and systems; and specific criteria related to the project's specific site location.

3.02.05 Consultant shall verify, confirm and modify (as needed) the preliminary program's description of occupancy needs and spatial allocation by coordinating with County Staff (including building user groups and others as necessary). Include all space and flow diagrams, diagrammatic studies and descriptive text for: internal functions; human, vehicular and material flow patterns; site requirements; general space allocations; adjacency and material handling.

3.02.06 Consultant shall develop the program's project specific description of site development criteria, building configuration, construction, and material standards by:

(A) Listing required or optional provisions for phased construction and future additions.

(B) Identifying property building line limitations to estimate ground level building areas.

(C) Listing required or optional provisions for phased construction and future additions.

(D) Verifying and documenting site zoning or other restrictions such as building heights, setbacks, etc.

(E) Identifying orientation considerations for solar, views, street access, etc.

(F) Identifying options of numbers of building stories and total height based on estimated floor plan areas and overall occupancy.

(G) Estimating size(s) of core area(s) required for:

- 1) Mechanical services.
- 2) Electrical services.
- 3) Vertical transportation.
- 4) Stair/smoke towers.

(H) Estimating and documenting structural spans required to-suit room spatial needs.

(I) Identifying options of building configuration based on functions, occupancies, site limitations, orientation, height, spans and structural system.

- (J) Identifying and documenting building cladding and fenestration suited to construction, structural, functional, and cost considerations.
- (K) Identifying and documenting interior partitioning, flooring, and ceiling systems suited to construction, structural, functional, and cost considerations.
- (L) Identifying and documenting any "Contract Administrator Preferences" for interior and exterior construction types, space planning, site planning, space functionalities, building systems and assemblies, room types, building envelopes, and maintenance and operational considerations.
- (M) Identifying and documenting any neighborhood, sociological or demographic influences that will impact the facilities design and operation.
- (N) Identifying and documenting goals for integrating public art into the project.

(End of Programming Option 2)

- 3.02.07 Consultant shall analyze and document jurisdictional requirements related to concurrency or other regional/urban planning issues.
- 3.02.08 Consultant shall research and document all codes, laws, rules, regulations and ordinances pertaining to the property, building type and probable building design established by other programming tasks.
- 3.02.09 Consultant shall provide written cost estimates for the Project and budgeting services based on the programming tasks listed above and consisting of: conversion of programmed requirements to net area requirements; development of initial approximate gross facility areas; evaluation of current construction market conditions; application of unit cost data to gross area; estimates of related costs such as site development, landscaping, utilities, phasing and other services. Additionally, Consultant shall:
 - (A) Reconcile the architectural program with County's budget.
 - (B) Advise the Contract Administrator if budget and program are not compatible.
- 3.02.10 Consultant shall confer with the Contract Administrator and develop recommendations concerning the construction delivery methods (design-bid-build, construction management (CM), CM at Risk, fast-track, phased project, etc.) and the related bidding and/or selection processes necessary to select the construction delivery agent (Contractor, Construction Manager, etc.). These recommendations shall include a discussion of how the future design documentation (including schematics, design development, construction document and bidding documents)

must be developed to accurately and thoroughly communicate the construction process related to each of the optional construction delivery methods. Discussion shall also include an analysis of project cost and schedule implications of selecting the respective alternative construction delivery methods.

3.02.11 Within the time frame established in Attachment 1, Project Schedule, Consultant shall submit TEN (10) copies of all documents required under this Phase (except where otherwise specified), without additional charge, for approval by the Contract Administrator. The Contract Administrator shall review submitted documents and provide written review comments to Consultant within the time frames established on Attachment 1, Project Schedule. Consultant shall modify and resubmit to Contract Administrator until approved (if not initially satisfactory to the Contract Administrator) by 14 consecutive calendar days from the receipt of Contract Administrator's review comments such documents and drawings as required to illustrate the Program listed in the paragraphs above.

3.02.12 In addition to the required hard copy documents described above, Consultant shall submit the final Contract Administrator approved programming documents on electronic media conforming to the Contract Administrator's Electronic Media Submittal Requirements (Attachment 2). The electronic media submittal shall include all text, drawings, spreadsheets, exhibits, diagrams, charts, photographs, presentation materials and other media used to prepare the program and present it to the Contract Administrator. Hard copy original archival documents that are unavailable in electronic media formats may be photographed or scanned and saved in TIFF, JPEG or other suitable electronic formats.

3.02.13 Consultant shall not proceed with the next Phase until the completion of all required presentations and reports, reconciliation or correction of all outstanding Contract Administrator review comments, and receipt of a written Notice to Proceed with the next phase.

3.02.14 Consultant shall provide presentations of the project's Program to County's staff, using agencies or groups, the public and to the Broward County Board of County Commissioners as required.

3.03 PHASE I - Schematic Design:

3.03.01 Consultant shall confer with representatives of the Contract Administrator to verify and confirm the Program (as appropriate to the type of project), consisting of a detailed listing of all functions and spaces together with the square footage of each assignable space, gross square footage, and a description of the relationships between and among the principal programmatic elements.

3.03.02 Consultant shall, prior to commencing Phase I design activities, inspect the site to determine if existing conditions conform to those portrayed on information as may have been provided by the Contract Administrator. Upon discovery of such differing conditions, Consultant shall notify Contract Administrator. If no record (photographs and other written or graphic documentation) of existing facilities was made during Predesign Phase, Consultant shall:

(A) Take photographs and make written documentation, sketches, notes or reports to confirm and record the general condition of the existing site with particular attention to the following building/site elements as appropriate to the Project:

- 1) All above ceiling areas.
- 2) Power supplies, switch gear, breaker panels, and transformers.
- 3) Major components of existing HVAC systems including chillers, cooling towers, air handling units, and primary ductwork runs.
- 4) Roofing, waterproofing and building envelope systems.
- 5) Site drainage systems and water retention characteristics.
- 6) Site vegetation, appurtenances, existing site improvements and access points from adjacent streets.
- 7) Adjacent properties and those facing the project site across streets or other roadways.
- 8) On site structures requiring demolition or other "unauthorized" use of the site by third parties which require removal (and/or other disposition) prior to commencement of work on the Site.

(B) Conduct site investigations and inspections. Access to concealed areas shall be non-destructive except where destructive investigations, tests or means of access are authorized in advance by the Contract Administrator.

3.03.03 In the event that Consultant believes that the Project scope, schedule or budget is not achievable, Consultant shall immediately notify the Contract Administrator in writing as to the reasons one or all of them are unreasonable or not achievable immediately upon discovery.

3.03.04 Consultant shall present a minimum of three alternative design solutions to the Contract Administrator to illustrate optional creative responses to the architectural program. The Contract Administrator will convene a schematic design review

conference at which Consultant shall review with the Contract Administrator (and using agency and other concerned parties) these alternative solutions. Alternative approaches should address both design and construction of the project; site use and improvements; selections of materials, building systems and equipment; potential construction methods and methods of project delivery; and Consultant's recommendations concerning the presented alternatives. The Contract Administrator shall identify a preferred design solution which shall then form the basis of Consultant's continuing work on the project and the primary content of the Design Concept and Schematics Report further described below.

3.03.05 Consultant shall prepare, submit and present for approval by the Contract Administrator a Design Concept and Schematics Report, comprised of the Schematic Design Documents listed below including an identification of any special requirement(s) affecting the Project:

- (A) "Project Transmittal Form" as required by County's Construction Management Division. In the absence of a proprietary form issued by County's Construction Management Division, Consultant shall utilize its own office standard transmittal form (or an equivalent document such as that published by the American Institute of Architects. The Project Transmittal Form must accurately delineate the date of submittal and list each component document of the submittal.
- (B) "Space Chart Form" formatted to list all spaces within the project by room number, room title and net square foot area. The Space Chart Form must also include a listing of the project's total net square foot area, total gross square foot area, and an efficiency percentage derived from the ratio of total net to total gross square foot areas. Note any deviations from Contract Administrator approved programmatic documents for the Project.
- (C) For those projects that involve new buildings, building additions and other exterior work, provide a hardcopy and electronic media copy of a site survey with the following information: the legal description of the site, acreage, points of the compass, contours, overall dimensions, vegetation, trees, hardscape elements, adjacent highways and roads, information about ownership and use of adjacent land, locations of on- and off-site utility connections, utility service point entry locations, parking areas, service areas, play areas, athletic fields, bus pick-up areas, parent pick-up areas, existing buildings with height, mechanical cooling towers and chillers, floor elevations (related to base flood elevation as shown on Flood Insurance Rate Maps, FEMA and Broward County criteria), and use. The site survey may be an update of informational surveys provided by the Contract Administrator but shall be prepared on electronic media and submitted in both hard and electronic media formats conforming to the Contract Administrator's Electronic Media Submittal Requirements (Attachment 2).

(D) Concept Drawings. These documents shall be schematic drawings responding to the predesign documentation and architectural program requirements illustrating the general scope, scale, and relationship of project components. Documents shall include, as a minimum, the following in addition to other graphic or descriptive materials Consultant may deem necessary to adequately communicate the project:

- 1) A site plan showing acreage, points of the compass, scale, contours and general topographical conditions, flood plain elevation and velocity zone (pursuant to FEMA and/or Broward County criteria, whichever is most stringent), over-all dimensions, adjacent highways, roads, off-site improvements, emergency access, fire hydrants, power transmission lines, ownership and use of adjacent land, walks and paths, vehicle and bike parking areas, preliminary chiller plant/cooling tower/electrical vault locations, accessibility for the disabled, service areas, loading docks, play areas, athletic fields, bus and car loading zones, existing buildings and use, location of proposed building(s) and future additions, relocatable or temporary structures, community use buildings, phased construction, preliminary soil borings. A statement shall be included on the site plan identifying the FEMA and Broward County criteria for flood plain and velocity zone in which the project is located. The statement shall be signed and dated by the Architect or Engineer of Record.
- 2) Floor plans showing points of the compass, over-all dimensions, identity of each space, proposed door locations, accessibility for the disabled, room numbers, occupant load of each space, proposed passive design and low energy usage features, possible community service/use areas, mechanical and electrical rooms, any existing buildings and use, future additions, and phased construction.
 - a. Provide life-safety plan(s) delineating the necessity for and initial decisions concerning exits, provisions for accessibility for the physically challenged, fire walls, protected corridors, smoke partitions, fire alarm systems, fire sprinkler systems, room names and numbers, and any other life-safety features relevant to the facility. Indicate those facilities, or portions thereof, that will serve as emergency shelters or which have been designed to incorporate special emergency preparedness features or equipment including a brief notation of those design features and/or equipment.
 - b. Provide ADA plan(s) delineating the necessity for and initial decisions concerning compliance with the Florida Accessibility Code for Building Construction (1997 edition or later). Include graphics and notations delineating accessible routes, parking, elevators/ramps/lifts, toilet

facilities, tactile warnings, signage, telephones, assistive listening systems, and other building equipment and features that will provide accessibility.

- 3) Provide elevations and sections of the building to fully illustrate and indicate the mass and character of the facility including fenestration, openings, walkways, vertical transportation (elevators, escalators, lifts, ramps and stairs), preliminary material selections, and other building features and spatial relationships.
 - 4) Landscape Concept Drawings indicating preliminary locations and character of proposed landscaped areas that will conform to required zoning and development codes and other jurisdictional requirements of project's location.
 - 5) Preliminary graphics, concept sketches and other supplementary materials suggesting proposed locations for integrated public art, thematic design treatments for children's areas, youth services areas, and/or other special spaces which have been programmed for special or thematic design content (including theme oriented furnishings, graphics, signage, finish materials and other "special" construction such as entryway treatments, etc.).
- (E) A Preliminary Project Description comprised of a narrative discussion of preliminary material selections, components, assemblies, and systems (including proposed landscape, civil, structural, mechanical, and electrical design elements, components and systems) to be used in the project. Coordinate points of service and preliminary service requirements with Florida Power and Light (FPL), BellSouth, cable TV and other utility services as required by the Project's scope and program. The Preliminary Project Description should specifically incorporate and address Value Engineering and Constructability issues raised during this project phase. Format Preliminary Project Descriptions to match that specified by the latest edition of the Construction Specifications Institute's "Manual of Practice".
- (F) Mechanical Requirements Specific to Remodeling and Addition Projects: Provide a listing of capacities for existing HVAC equipment and the available tonnage for the new connected load. Provide a survey of the condition of the existing mechanical equipment.
- (G) Electrical Requirements Specific to Remodeling and Addition Projects: Provide an electrical load analysis for the existing facility for existing and new loads. Provide a survey of the condition of the existing electrical equipment.

- (H) A Project Development Schedule: Consultant shall prepare a schedule of services (Project Development Schedule) in compliance with Project Schedule and for approval by the Contract Administrator. Such schedule shall show activities including but not limited to Consultant efforts and Contract Administrator (and other municipal/agency) reviews and approvals required to complete the design services. This schedule shall initially be submitted to the Contract Administrator for approval within fifteen (15) days of execution of this agreement. As a condition of payment, Consultant will submit with each invoice a copy of the approved schedule showing progress (indicated by percentage complete) as of the invoice cutoff date and a forecast of when each phase of Consultant's work will be complete. No subsequent payment shall be made if Consultant has not obtained approval of his work schedule, the schedule is not updated, or a forecast is not submitted with each invoice (provided that Contract Administrator conducts its review promptly and does not withhold its approval unreasonably).
- 1) Include all activities known at this stage of the project's development for the entire project including the construction process. Illustrate all project activities including any projected or preliminary requirements for creating temporary facilities, relocating County's staff and/or other personnel, removing and storing furniture, equipment and/or other appurtenances, hazardous material abatement, work by County, work by separate contractors, and any other activities that relate to or may impact construction of the project (including offsite work and related site reviews, permitting, etc.).
 - 2) Prepare in a bar chart format, or other format as required by the Contract Administrator, which may be further developed and updated for submittal during subsequent phases of the Basic Services.
 - 3) Consultant shall not be permitted to deviate from the milestones indicated on the Project Schedule (Attachment 1 of this Agreement) without specific written authorization from the Contract Administrator.
- (I) The Statement of Probable Construction Cost: Consultant shall submit to Contract Administrator for review and approval a schematic design phase estimate of probable construction cost itemized by major categories and projected to the expected time of bid. If, in the Contract Administrator's sole opinion, the project merits a schematic design estimate prepared by an independent cost estimator, then Contract Administrator may authorize Consultant to obtain those independent cost estimating services as an Optional Service expense.

- 3.03.06 Consultant shall investigate and determine the municipal, county and other jurisdictional agency (such as the South Florida Water Management District, HRS, etc.) coordination required for the Project and, through the Contract Administrator, make applications for site plan and other review as appropriate to this phase of the project. Consultant shall prepare and provide a list of permits and approvals required by such agencies to the Contract Administrator and shall coordinate with Contract Administrator concerning the timing, application requirements, fees and other matters pertaining to those agency approvals. Consultant, as required by the Contract Administrator, shall attend and provide representation at all review meetings, workshops, hearings and Commission/Council meetings concerning the project as conducted by any and all other agencies having jurisdiction over the project. Consultant shall be responsible for attending and participating in design reviews conducted by the municipal, county or other jurisdictional agency and shall be responsible for responding in writing to all review comments generated in such reviews and providing revised and resubmitted documents as required by reviewing agencies in response to such reviews.
- 3.03.07 Consultant shall submit five copies of all documents required under this Phase (except where otherwise specified), without additional charge, for approval by the Contract Administrator. The Contract Administrator shall review submitted documents and provide written review comments to Consultant within the time frames established on Attachment 1, Project Schedule. Consultant shall modify and resubmit to Contract Administrator until approved (if not initially satisfactory to the Contract Administrator) within 14 consecutive calendar days from the receipt of Contract Administrator's review comments such documents and drawings as required to fulfill the submittal requirements for this project phase as listed in the paragraphs above.
- 3.03.08 Consultant shall provide presentations of the Schematic Design to County's staff, the public and to the Broward County Board of County Commissioners as required by the Contract Administrator.
- 3.04 Not Used**
- 3.05 Not Used**
- 3.06 Not Used**
- 3.07 Not Used Phase IV - Bidding and Award of Contract**
- 3.07.01 Bid Documents Approvals and Printing:** Upon obtaining all necessary approvals of the Construction Documents, approval by the Contract Administrator of the latest Statement of Probable Construction Cost, and a specific Notice to Proceed with the Bidding and Award phase of the project, Consultant shall assist the Contract

Administrator in obtaining bids and awarding construction contracts. Bidding and award of the construction contract may take two alternative forms: 1) a Conventional Bidding Scenario or 2) a Negotiated Agreement as further detailed below.

Construction Award Option 1: Conventional Bidding

The following optional Bidding and Award of Contract Services as described below in Articles 3.07.02 through 3.07.16 Are Are Not a part of this Agreement's Basic Services.

- 3.07.02 Consultant shall assist the Contract Administrator in the preparation of bidding information (or information required to accommodate an alternative project delivery method as may be determined by the Contract Administrator). Consultant will utilize the Contract Administrator's Standard Form Construction Documents (or a standard document provided by the Contract Administrator for alternative construction delivery) for this project and agrees to verify and utilize the latest edition of those documents at the time of Bidding. Any deviation from the Standard Form Construction Documents must be approved in advance by County's Office of the County Attorney.
- 3.07.03 Consultant shall coordinate bidding activities as necessary with those County agencies having non-technical review authority. These agencies include, but are not limited to, the Small Disadvantaged Business Enterprise Office, Risk Management Division, Purchasing Division, and the County Attorney's Office.
- 3.07.04 Consultant shall provide the Contract Administrator with a list of those Contractors in the local area (Broward, Palm Beach, and Miami-Dade Counties) that Consultant deems capable of constructing the Project.
- 3.07.05 Consultant shall provide to the Contract Administrator two (2) reproducible copies of the bidding documents, including all drawings and specifications. The Contract Administrator will be responsible for printing the bidding documents. The Contract Administrator reserves the right to instruct Consultant to have the bidding documents (including drawings and specifications) printed for bidding purposes, either through its open agreements with printing firms or as a reimbursable service through Consultant.
- 3.07.06 County will issue the Bid Documents to prospective bidders and keep a complete "List of Bidders." The Advertisement for Bids will instruct the bidders to pick up the Bid Documents at County's Purchasing Department or alternative location.

- 3.07.07 Consultant shall render interpretations and clarifications of the drawings and specifications in a written format, supplemented by appropriate graphics, acceptable to the Contract Administrator.
- 3.07.08 Consultant shall attend pre-bid conferences as scheduled by the Contract Administrator.
- 3.07.09 Consultant shall prepare addenda, if any are required, for the Contract Administrator to issue to all prospective bidders. No addenda shall be issued without the Contract Administrator's approval and if dimensional changes or extensive graphic changes are required the full drawing sheets shall be revised and issued as addendum drawings.
- 3.07.10 Consultant shall be present at the bid opening, with County's staff.
- 3.07.11 Consultant shall participate with Contract Administrator in evaluating the bids and investigating the qualifications of bidders and shall provide a written recommendation for bid award.
- 3.07.12 Consultant shall advise and consult with Contract Administrator in awarding and assisting in the preparation of any agreements necessary for the construction of the project, including, without limitation, that form of agreement between County and Contractor.
- 3.07.13 If the lowest responsive Base Bid received exceeds County's funds available for the Project, the Contract Administrator will either: (A) approve the increase in Project cost and award a contract or, (B) reject all bids and rebid the Project within a reasonable time with no change in the Project, (C) direct Consultant to revise the Project scope or quality, or both, as approved by the Contract Administrator, and rebid the Project, or (D) suspend or abandon the Project.
- 3.07.14 Under Article 3.07.13(C) above Consultant shall, without additional compensation, modify the Construction Documents as necessary to bring the Probable Construction Cost within the Fixed Limit of Construction Cost. The providing of such service shall be the limit of Consultant's responsibility in this regard and having done so, Consultant shall be compensated in accordance with this Agreement. The Contract Administrator may recognize exceptional construction market cost fluctuations before exercising the option provided in Article 3.07.09(C) above. The Contract Administrator agrees to discuss this issue with Consultant prior to exercising this option.
- 3.07.15 Consultant shall provide assistance to the Contract Administrator as necessary to alleviate bid protests or other impediments to award of the construction contract.

- 3.07.16 If, in the Contract Administrator's sole opinion, the project merits a bidding & award phase estimate prepared by an independent cost estimator, then Contract Administrator may authorize Consultant to obtain those independent cost estimating services as an Optional Service expense. If an estimate or cost analysis was required the Contract Administrator for a previous phase of the project, Consultant shall utilize the previously established independent cost estimator, or a replacement acceptable to the Contract Administrator to analyze bids and to assist in the preparation of any modified bidding documents or re-bid documents that may be required to ensure successful bidding within the Fixed Limit of Construction Cost.

End of Construction Award Option 1

Construction Award Option 2: Negotiated Agreement

The following optional Bidding and Award of Contract Services as described below in Articles 3.07.02 through 3.07.13 Are Are Not a part of this Agreement's Basic Services.

- 3.07.02 Consultant shall assist the Contract Administrator in conducting negotiations with a Managing General Contractor (Construction Manager) or other similar entity to establish a Guaranteed Maximum Price and other contractual issues related to the establishment of a construction contract with the Managing General Contractor.
- 3.07.03 Consultant will incorporate the Contract Administrator's standard form construction documents (as provided by the Contract Administrator for alternative construction delivery) for this into the Project Manual and shall make final modifications to the Project Manual to reflect results of Contract Administrator's negotiations with the Managing General Contractor. Contract Administrator will coordinate any deviations from the standard form construction documents in advance with Consultant and County's Office of the County Attorney.
- 3.07.04 Consultant shall assist the Contract Administrator and the Contractor in obtaining permits, approvals and authorizations from jurisdictional agencies with authority over the project. Consultant shall, as requested by the Contract Administrator, meet on an as-needed basis with jurisdictional agencies in order to clarify or explain submitted documents and to ascertain the scope and intent of review comments made by those jurisdictional agencies. Consultant shall provide graphic and written documents as necessary to facilitate these jurisdictional reviews, including issuing revised drawings and specifications in response to review comments and/or other concerns generated by those jurisdictional agencies without additional cost to County.

- 3.07.05 Consultant shall assist the Contract Administrator's review of the Managing General Contractor's bidding activities and make recommendations concerning the conduct and result of that bidding. These activities shall include investigating the qualifications of bidders and provision of a written recommendation for bid award. Consultant shall review and, upon request of the Contract Administrator, prepare Contract Price Element Adjustment Memoranda made necessary by the Contractor's bidding activities, changes requested by the Contract Administrator, and/or other circumstances affecting the project's GMP structure.
- 3.07.06 Consultant shall provide to the Contract Administrator two (2) reproducible copies of the finalized construction contract documents, including all drawings and specifications. The Contract Administrator will be responsible for printing the documents and distributing them to the Managing General Contractor. The Contract Administrator reserves the right to instruct Consultant to print the construction contract documents (including drawings and specifications) and distribute them to the Managing General Contractor, either through its open agreements with printing firms or as a reimbursable service through Consultant.
- 3.07.07 Consultant shall render interpretations and clarifications of the drawings and specifications in a written format, supplemented by appropriate graphics, acceptable to the Contract Administrator.
- 3.07.08 Consultant shall attend coordination meetings, negotiation meetings, pre-bid conferences and bid openings as scheduled by the Contract Administrator and the Managing General Contractor.
- 3.07.09 Consultant shall prepare addenda, if any are required, for the Contract Administrator to issue to the Managing General Contractor. No addenda shall be issued without the Contract Administrator's approval. If dimensional changes or extensive graphic changes are required the full drawing sheets shall be revised and issued as addendum drawings. Extensive modifications to specification section(s) shall be prepared as replacements of the entire specification section(s).
- 3.07.10 Consultant shall advise and consult with Contract Administrator in awarding and assisting in the preparation of any agreements necessary for the construction of the project, including, without limitation, that form of agreement between County and Contractor.
- 3.07.11 If the Guaranteed Maximum Price exceeds County's funds available for the Project, the Contract Administrator will either: (A) approve the increase in Project cost and award a contract or, (B) reject the negotiations with the Managing General Contractor and initiate negotiations with alternatively selected firms within a reasonable time with no change in the Project, (C) direct Consultant to revise the

Project scope or quality, or both, as approved by the Contract Administrator, and reinitiate negotiations with the Managing General Contractor, or (D) suspend or abandon the Project.

- 3.07.12 Under Article 3.07.10(C) above Consultant shall, without additional compensation, modify the Construction Documents as necessary to bring the Guaranteed Maximum Price within County's available funds for the project. The Contract Administrator may recognize exceptional construction market cost fluctuations before exercising the option provided in Article 3.07.10(C) above. The Contract Administrator agrees to discuss this issue with Consultant prior to exercising this option.
- 3.07.13 If, in the Contract Administrator's sole opinion, the project merits a bidding & award phase estimate prepared by an independent cost estimator, then Contract Administrator may authorize Consultant to obtain those independent cost estimating services as an Optional Service expense. If an estimate or cost analysis was required the Contract Administrator for a previous phase of the project, Consultant shall utilize the previously established independent cost estimator, or a replacement acceptable to the Contract Administrator to analyze bids and to assist in the preparation of any modified documents that may be required to ensure successful negotiations with the Managing General Contractor.

End of Construction Award Option 2

3.08 Not Used

3.09 Not Used

4.01 Optional Services:

Optional Services indicated with a checked box () are incorporated into this Agreement as a BASIC SERVICE.

4.01.01 The services listed below are normally considered to be beyond the scope of Basic Services as defined in this Agreement, and if authorized in advance by an appropriate written authorization, will be compensated for as provided under Article 5:

- (A) Providing financial feasibility, or other special studies.
- (B) Masterplanning or providing services relative to future facilities, systems and equipment which are not intended to be constructed as during the construction phase.

- (C) Providing services to make measured drawings of the existing site or facilities.
- (D) Providing investigations and making detailed appraisals and valuations of existing facilities, and surveys or inventories required in connection with construction performed by County.
- (E) Providing any additional or special professional services as may be required for the project not within this Agreement.
- (F) Providing the services of one or more full-time on-site representative during construction; including the services of a Special Threshold Inspector.
- (G) Providing extended assistance beyond that provided under Basic Services for the initial start-up, testing, adjusting and balancing of any equipment or system; extended training of County's personnel in operation and maintenance of equipment and systems, and consultation during such training; and preparation of operating and maintenance manuals, other than those provided by the Contractor, subcontractor, or equipment manufacturer.
- (H) Providing consultation concerning replacement of any Work damaged or built inconsistent with the Contract Documents, providing the cause is found by the Contract Administrator to be other than by fault of Consultant.
- (I) Providing consultation concerning replacement of any Work damaged by fire or other cause during construction, and furnishing services as may be required in connection with the replacement of such Work.
- (J) Preparing revisions of Schematic Design, Design Development, and Construction Document Phase Documents previously approved in writing by Contract Administrator, when so directed in writing by Contract Administrator, provided, however, that no compensation for Additional Services shall be paid for revisions which may be required when due to errors or omissions by Consultant or when due to the fact that the lowest Bona Fide construction bid exceeds the 'fixed limit of construction cost'.
- (K) Providing services made necessary by the default of the Contractor, or any major unanticipated defects or deficiencies in the Work of the Contractor or any other entity engaged with the construction of the Work.
- (L) Preparing change orders and related documents required by changes (whether increases or decreases) in the scope of the project as requested by the Contract Administrator for unforeseen conditions and Contract Administrator requested changes only and not for any changes due to the error or omission of Consultant.

- (M) Providing revisions in drawings, specifications or other documents required by the enactment or revision of codes, laws or regulations subsequent to the preparation of such documents.
- (N) Preparing to serve or serving as an expert witness in connection with any public hearing, arbitration proceeding or legal proceeding.
- (O) Participation in the Contract Administrator's program of Building Commissioning.
- (P) Participation in the Contract Administrator's program of Partnering.
- (Q) Review of extensive claims by the Contractor or others relating to the Project. However, there shall be no additional charges to County from Consultant in the event the claims are not extensive or in the event the claims are determined by the Contract Administrator to be based upon the failure of Consultant or Subconsultant to properly perform its services or to comply with the provisions of this Agreement.
- (R) Interior Design Services to include the following minimum services at the indicated design phase of the project:
 - 1) Phase I: Schematic Design: Provide preliminary colorboards and interior design sketch perspectives to communicate spatial relationships, preliminary furniture selections, material types and color and texture palette/selections for all finish materials with the Contract Administrator. Provide single copies of preliminary colorboards.
 - 2) Phase II: Design Development:
 - a. Provide detailed Equipment and Furnishing Schedules: In addition to those preliminary furniture and equipment schedules required as Basic Services, provide listing of at least three sources for each furniture type from vendors listed on state and local contracts or purchasing agreements. Provide documentation for each furniture item which includes manufacturer's and/or vendor discounts, installation and freight costs, dimensions, finishes available, furniture features, pricing and furniture lead times.
 - b. Provide Detailed Equipment and Furnishing Drawings: In addition to those layout drawings required as Basic Services, provide elevations, preliminary systems furniture workstation plates and isometric drawings indicating the locations, scale and proposed arrangement of all furniture and equipment items including those that will be provided by the Contractor and those that will be provided by the Contract Administrator

or others. Provide a symbols legend and unique identifiers for each piece of furniture or equipment corresponding to those established in the Equipment and Furnishing Schedules described above. Coordinate with Contract Administrator concerning standardized color coding of Equipment and Furnishing drawings necessary to facilitate internal Contract Administrator review and coordination of equipment and furnishings. Ensure that all illustrated furniture items are drawn to manufacturer's dimensions and are not generic templates or blocks which may not accurately reflect the size and configuration of proposed furniture or equipment items.

3) Phase III: Construction Contract Documents Development

- a. Provide Updated Detailed Equipment and Furnishing Drawings and detailed Equipment and Furnishing Schedules indicating "In Contract" and "Not In Contract" furniture and equipment items, loose furniture and systems furniture.
- b. Systems Furniture: Provide systems furniture workstation plate drawings including a Panel Plan (showing panel widths, heights and finishes), a Component Plan and Isometric (indicating all components to be provided within the project with a written description of each component by size, type and quantity and with an isometric drawing of workstations) and an Electrical Panel Plan (indicating electrical outlets, locations of system power entry, computer data and telephone receptacles).
- c. Loose Furniture and Equipment: Provide updated furniture floor plans indicating loose furniture and equipment items with symbols, legends, notes and indicators required for earlier submittals. Supplement with drawing notations concerning installation.
- d. Colorboards illustrating furniture selections and the selection of colors, finishes, textures and aesthetic qualities of all finish materials for final review and approval by the Contract Administrator and to establish a final palette of material selections for development of subsequent specifications, schedules and other requirements for incorporation into the Contract Documents.
- e. Loose furniture detailed specifications and descriptive data coordinated through County's Purchasing Division (via the Contract Administrator) in sufficient detail to allow procurement through the Purchasing Division:
 1. Manufacturer's Information
 2. Vendor State and Local Contract Listings

3. Vendor Information
 4. Quantities
 5. Item numbers keying specifications to Furniture Floor Plans
 6. Manufacturer's Model Numbers
 7. Description, size, finishes and other information required to order furniture.
 8. Installation General Notes
- f. Systems furniture detailed specifications and descriptive data coordinated through County's Purchasing Division (via the Contract Administrator) in sufficient detail to allow procurement through the Purchasing Division:
1. Manufacturer's Information
 2. Vendor State and Local Contract Listings
 3. Vendor Information
 4. Quantities
 5. Item numbers keying specifications to Furniture Floor Plans
 6. Manufacturer's Model Numbers
 7. Description, size, finishes and other information required to order furniture.
 8. Installation General Notes
- 4) Phase IV: Bidding and Award of Contracts
- a. Provide assistance to the Contract Administrator's and Purchasing Division's acquisition of furniture, fixtures equipment by participating in pre-bid meetings and assisting with analysis of submitted bids, substitution requests and other administrative matters related to County's procurement process.
- 5) Phase V: Administration of the Construction Contract
- a. Provide assistance to the Contract Administrator by providing on-site observation of installation of substrate materials, anchorages and other construction items that impact the subsequent placement/installation of furniture/fixtures and equipment.
- 6) Phase VI: Warranty Administration and Post-Occupancy Services:
- a. Provide direct supervision of the delivery, installation and testing of furniture, fixtures and equipment items. Provide inventory control and shipping verification to Contract Administrator.

- b. Provide Warranty Administration and support for furniture, fixtures and equipment for a minimum one year post-installation period (starting from date installation receives inspection and final acceptance by the Contract Administrator) and extending through any extended or special warranty periods associated with individual furniture, fixture or equipment items.
 - c. Participate in Contract Administrator's Post Occupancy Evaluations.
- (S) Renderings: 30 days after receipt of the Notice to Proceed with the Construction Documents Phase, Consultant shall submit several simple studies of proposed perspective drawings for the Project, indicating suggestions for angles of view and general composition of a rendering. Upon approval of a perspective format, Consultant shall execute and submit, with the 100% Construction Documents:
- 1) One (1) 20" x 30" matted, framed and glassed color perspective rendering(s) of the Project.
 - 2) Five (5) smaller 10" x 15" framed color photographic copies of the original rendering(s). (Color Xerox copies are not acceptable.)
 - 3) One (1) original and nine (9) duplicate 35 mm color photographic slides mounted in standard cardboard sleeves.
- (T) Color Photography: Consultant shall facilitate the Contract Administrator's selection of a professional architectural photographer. Consultant shall arrange for and participate in the Contract Administrator's: review of photographer's past work, interview(s) with prospective photographers and photographer's tour of subject facilities. Consultant shall assist photographer on day(s) of on-site photography and shall assist the Contract Administrator in selecting photographs for printing. Number of photographs, media and photographer's compensation shall be subject to negotiations conducted with the photographer by Consultant and Contract Administrator.
- (U) If, in the Contract Administrator's sole opinion the project merits a detailed estimate prepared by an independent cost estimator and those services are not previously required as a Basic Service, then Contract Administrator may authorize Consultant to obtain those independent cost estimating services as an Optional Service expense. Such estimate shall consist of a fully detailed estimate of probable construction cost projected to the expected time of bid (or other award of construction services) and containing sufficient detail to provide information necessary to evaluate compliance with the Project Budget set for this project. Format estimate and provide detail matching the organization and content of the project's Outline Specifications complete for Divisions 2 through

16 including all finishes, materials, and systems including civil, structural, HVAC, electrical, plumbing, and specialty items, including fire sprinklers, alarm systems, electronic controls and computer networking components. Utilize the 1995 edition of MasterFormat as published by the Construction Specifications Institute to organize the estimate.

- (V) Provide scheduling services to provide CPM schedules or other scheduling formats pursuant to the detail and complexity required by the Contract Administrator.
- (W) Provide 3-D computer modeling and other CADD-related visualization work pursuant to particular project needs of the Contract Administrator.
- (X) Provide physical modeling of proposed facilities, building assemblies or other assemblies or other spaces/facilities pursuant to the particular project needs of the Contract Administrator.
- (Y) Provide services to achieve LEED Certification for the Project through application to the appropriate organization.
- (Z) Any other services not otherwise included in this Agreement and not customarily furnished in accordance with generally accepted architectural practice related directly to design, construction or project administration.

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Professional Services Agreement

EXHIBIT A, SCOPE OF WORK

ATTACHMENT 1:

Project Schedule

Project Title: **ENERGY AUDIT AND PERFORMANCE CONSULTANT SERVICES
(PART ONE ENERGY AUDIT)**

The required project schedule milestones for this project are presented below. Items marked undetermined require additional development and submittal of the Consultant's Project Development Schedule as required by the Professional Services Agreement for this project.

ACTIVITY	DATE REQUIRED OR ESTIMATED TIME PERIOD	
Energy Performance Audit		
Preliminary Energy Performance Audit / Feasibility Study	30 Days	<input type="checkbox"/>
County Review	14 Days	<input type="checkbox"/>
Investment Grade Audit Report	120 Days	<input type="checkbox"/>

Professional Services Agreement

EXHIBIT A, SCOPE OF WORK

ATTACHMENT 2:

Electronic Media Submittal Requirements

The Contract Administrator will be utilizing electronic media as the principal way it develops, communicates and archives information concerning its various construction programs. To that end, County's standard Professional Services Agreements for consultant services require submittal of documents produced on electronic media. Requirements for that media are presented below.

ELECTRONIC MEDIA

(A) General Requirements:

- 1) All Work, including surveying work, drawings, maps, details or other drawing information to be provided in electronic media by Consultant shall be accomplished and developed using computer-aided design and drafting (CADD) and other software and procedures conforming to the following criteria.

(B) CADD Graphic Format:

- 1) Provide all CADD data in Autodesk, Inc.'s AutoCAD release 2004 or higher for Windows in native .dwg electronic digital format. Provide copies of all drawing sheets or other CADD produced documents intended for hardcopy plotting or printing in plot (.plt) and drawing web format (.dwt) versions of all sheets/documents.
- 2) Target platform: Pentium IV personal computer with either a Windows XP operating system.
- 3) Ensure that all digital files and data (e.g., constructs, elements, base files, prototype drawings, reference files, blocks, attribute links, and other files external to the drawing itself) are compatible with the Contract Administrator's target CADD system (i.e., basic and advanced CADD software, platform, database software), and adhere to the standards and requirements specified herein.
- 4) The term "compatible" means that data can be accessed directly by the target CADD system without translation, pre-processing, or post-processing of the electronic digital data files. It is the responsibility of Consultant to ensure this level of compatibility.

- 5) Any non-graphical database delivered with prepared drawings: provide in relational database format compatible with Microsoft Access 2002 or higher, or other compatible SQL format database.
- 6) Maintain all linkages of non-graphical data with graphic elements, relationships between database tables, and report formats.
- 7) All database tables: conform to the structure and field-naming guidance provided upon request by the Contract Administrator.

(C) CADD Standards:

- 1) Standard plotted drawing size: 24 inch x 36 inch sheets.
- 2) Coordinate with the Contract Administrator concerning the standard file naming protocol to be utilized.
- 3) Layering:
 - a. Conform to the guidelines defined by the American Institute of Architect's (AIA) standard document, "CAD Layer Guidelines", 2nd edition or later.
 - b. Provide an explanatory list of which layer is used at which drawing and an explanatory list of all layers which do not conform to the standard AIA CAD Layer Guidelines including any user definable fields permitted by the guidelines.
 - c. Layering: The Contract Administrator may, from time to time, supplement the AIA CAD Layer Guidelines with the Contract Administrator's specific requirements for Facilities Management and other related information. Obtain latest Contract Administrator specific layering from Contract Administrator prior to production of documents and incorporate into drawings.
- 4) Attribute Definitions:
 - a. Obtain latest guidance from the Contract Administrator concerning attribute definition, database linking and other information embedding requirements prior to production of documents.
- 5) Submit a written request for approval of any deviations from the Contract Administrator's established CADD standards. Pre-coordinate the development, use and submittal of 3-D modeling, Building Information Models (BIM), photo-realistic renderings, animations, presentations and other visualization/information tools

utilized during the design and construction process to ensure compatibility of submittal with County's uses and information systems.

- 6) No deviations from the Contract Administrator's established CADD standards will be permitted unless prior written approval of such deviation has been received from the Contract Administrator.

(D) Non-CADD Graphic Format: Provide digital photography files and other miscellaneous graphics in JPEG or PNG format.

(E) Non-Graphic Format:

- 1) Provide word processing files in Microsoft Word 2002 compatible file formats including all fonts, typefaces, bit-map and vector graphics and other information necessary for remote printing.
- 2) Provide spreadsheet files in Microsoft Excel 2002 for windows compatible file formats including all fonts, typefaces, bit-map and vector graphics and other information necessary for remote printing.
- 3) Provide database files in relational database format compatible with Microsoft Access 2002 or higher, or other compatible SQL format database including all tables, form and report formats, fonts, typefaces, bit-map and vector graphics and other information necessary for remote printing. Ensure integrity of relational database structure.

(E) Delivery Media and Format:

- 1) Submit copies of all CADD data and other electronic files developed under this contract on electronic digital media as required for project phase submittals.
- 2) Provide electronic digital data and files shall be provided on 5-1/4-inch ISO-9660 CD-ROM. Floppy discs, ZIP discs and other miscellaneous media will not be accepted.
- 3) The electronic digital media shall be in the format which can be read and processed by the Contract Administrator's target CADD system.
- 4) The external label for each electronic digital media shall contain, as a minimum, the following information:
 - a. The Project Number, Project Title and date.
 - b. The Facility Name
 - c. The format and version of operating system software.

- d. The name and version of utility software used for preparation (e.g., compression/decompression) and copying files to the media.
 - e. The sequence number of the digital media.
 - f. A list of the filenames.
- 5) Before a CADD file is placed on the delivery electronic digital media, the following procedures shall be performed:
- a. Ensure that drawing sheets, viewports, paperspace, lineweights, fonts, and other drawing components are correctly configured for Contract Administrator's viewing and plotting.
 - b. Make sure all reference files are attached without device or directory specifications.
 - c. Compress and reduce all design files using PKZIP, WINZIP or other compatible file compression/decompression software approved by the Contract Administrator. If the file compression/decompression software is different from that specified above, then an electronic digital media copy of the file compression/decompression software shall be purchased for the Contract Administrator and provided to the Contract Administrator with the delivery media.
 - d. Include all files, both graphic and non-graphic, required for the project (i.e., color tables, pen tables, font libraries, block libraries, user command files, plot files, and other elements of drawing definition). All blocks not provided as Contract Administrator-furnished materials must be provided to the Contract Administrator as a part of the electronic digital deliverables.
 - e. Make sure that all support files such as those listed above are in the same directory and that references to those files do not include device or directory specifications.
 - f. Include any standard sheets (i.e., abbreviation sheets, standard symbol sheets, or other listing) necessary for a complete project.
 - g. Document any fonts, tables, or other similar customized drawing element developed by Consultant or not provided among the Contract Administrator-furnished materials. The contractor shall obtain Contract Administrator approval before using anything other than the Contract Administrator's standard fonts, linetypes, tables, blocks, or other drawing elements available from the Contract Administrator.

(F) Drawing Development Documentation:

- 1) Provide the following information for each finished drawing in the nonplot layer X-****-NPLT:
 - a. How the data were input (e.g., keyed in, downloaded from a survey total station instrument (include name and model), and other identification data).
 - b. Brief drawing development history (e.g., date started, modification date(s) with brief description of item(s) modified, author's name, and other identifying data.).
 - c. The names of the reference, blocks, symbols, details, tables, and schedule files required for the finished drawing.
 - d. Layer assignments and lock settings.
 - e. Text fonts, line styles/types used, and pen settings.

(G) Submittal:

- 1) Submit as Project Record Documents specified above and as required for project phase submittals and project record documents.
- 2) Submit electronic media with a transmittal letter containing, as a minimum, the following information:
 - a. The information included on the external label of each media unit (e.g., disk, tape), along with the total number being delivered, and a list of the names and descriptions of the files on each one.
 - b. Brief instructions for transferring the files from the media.
 - c. Certification that all delivery media are free of known computer viruses. A statement including the name(s) and release date(s) of the virus-scanning software used to analyze the delivery media, the date the virus-scan was performed, and the operator's name shall also be included with the certification. The release or version date of the virus-scanning software shall be the current version which has detected the latest known viruses at the time of delivery of the digital media.
 - d. The following "Plot File Development and Project Documentation Information" as an enclosure or attachment to the transmittal letter provided with each electronic digital media submittal.

1. Documentation of the plot file for each drawing which will be needed to be able to duplicate the creation of the plot file by the Contract Administrator at a later date. This documentation shall include the plotter configuration (e.g., name and model of plotter), pen settings, drawing orientation, drawing size, and any other special instructions.
2. Instructions concerning how to generate plotted, or hard copy, drawings from the provided plot files.
3. List of any deviations from the Contract Administrator's standard layer/level scheme and file-naming conventions.
4. List of all new symbol blocks created for project, which were not provided to Consultant with the Contract Administrator-furnished materials.
5. List of any non-IGES crosshatch/patterns used.
6. List of all new figures, symbols, tables, schedules, details, and other blocks created for the project, which were not provided to Consultant with the Contract Administrator-furnished materials, and any associated properties.
7. List of all database files associated with each drawing, as well as a description and documentation of the database format and schema design.
8. Recommended modifications which will be necessary to make the data available for GIS use.

(H) Ownership:

- 1) County will have unlimited rights under the Professional Services Agreement of which this document is a part to all information and materials developed under these and other contractual requirements and furnished to the Contract Administrator and documentation thereof, reports, and listings, and all other items pertaining to the work and services pursuant to this agreement including any copyright.
- 2) Unlimited rights under this contract are rights to use, duplicate, or disclose text, data, drawings, and information, in whole or in part in any manner and for any purpose whatsoever without compensation to or approval from Consultant except where otherwise limited within the Contract.
- 3) The Contract Administrator will at all reasonable times have the right to inspect the work and will have access to and the right to make copies of the above-mentioned items.

- 4) All text, electronic digital files, data, and other products generated under this contract shall become the property of County except where otherwise limited within the Contract.

(I) Contract Administrator-Furnished Materials to the Construction Contractor:

- 1) The Contract Administrator and Consultant may make various electronic information available to the Contractor during the Pre-Construction and Construction phases of the Project. To this end, Consultant shall make the following information available to the Contractor in electronic format:
 - a. Work-files: Selected work product files, reports, spreadsheets, databases, specifications, drawings and other documentation of Consultant's work in progress may be provided to the Contractor, Managing General Contractor, or other County consultant on an as required basis. Consultant shall cooperate and facilitate the exchange of these electronic media documents.
 - b. Where electronic media submittals of final site surveys are required: Provide electronic copies of any existing site survey data already on electronic media.
 - c. Where Electronic Project Record Documents are required, Consultant will provide the Contractor one set of AutoCAD electronic file format contract drawings, to be used for as-built drawings at the Contractor's option. Make electronic file drawings available on CD ROM media.

(J) Other Digital Information:

- 1) A variety of digital information may be generated by participants in the design process including the Contract Administrator, Consultant, Subconsultants, Contractor, subcontractors, the Contract Administrator's commissioning authority, local jurisdictional authorities and other project team members.
- 2) Consultant shall facilitate and participate wherever possible in this digital exchange of information by conforming to the standards expressed above.

End of Attachment 2: Electronic Media Submittal Requirements

Professional Services Agreement

EXHIBIT A, SCOPE OF WORK

ATTACHMENT 3:

Not Used

**EXHIBIT A, SCOPE OF WORK
ATTACHMENT 4:**

Not Used

**EXHIBIT A, SCOPE OF WORK
ATTACHMENT 5:
List of Locations**

ESCO ID	Group "B" Property Name	Address 1	City	Postal Code	Bld and Parking (ft ²); Site (ft ²) for Parks	Property Type
Op Terra B Parks						
BP1	CD REGIONAL	3700 NW 11TH PL	Lauderhill	33311	4,758,836	Park
BP2	TOPEEKEEGEE YUGNEE	3300 N. PARK RD.	Hollywood	33021	6,036,980	Parks
BP3	EASTERLIN	1000 NW 38ST.	Oakland Park	33309	2,272,090	Parks
BP4	TREE TOPS	3900 S.W. 100TH AVE.	Davie	33328	10,571,141	Park
BP5	LONG KEY	3501 SW 130TH AVENUE	Davie	33330	8,062,944	Park
BP6	WEST LAKE / Anne Kolb NC	751 SHERIDAN ST	Hollywood	33019	2,052,472	Park
BP7	BRIAN PICCOLO	9501 SHERIDAN ST	Cooper City	33024	7,841,007	Park
BP8	FERN FOREST	4800 SW 4 ST	Margate	33063	9,417,047	Park
BP9	PLANTATION HERITAGE	1100 S. FIG TREE LN.	Plantation	33317	3,989,474	Parks
BP10	SECRET WOODS	2701 W. STATE RD. 84	Dania Beach	33312	2,464,952	Park
BP11	HOLLYWOOD NORTH BEACH	3601 N OCEAN DRIVE	Hollywood	33019	680,000	Park
BP12	SAW PALMETTO	4950 NW 71ST PL	Coconut Creek	33073	923,765	Park

Libraries

BL13	LIBRARY, AF, African American	2650 NW 6th Street	Ft Lauderdale	33311	447,424	Library
BL14	LIBRARY, SW, SW Regional	16835 Sheridan St	Pembroke Pines	33331	140,773	Library
BL15	LIBRARY, WR, West Regional	100 North Pine Island Road	Plantation	33324	148,808	Library
BL16	LIBRARY, NO, North West Regional	3151 University Drive	Coral Springs	33071	122,000	Library
BL17	LIBRARY, WE, Weston	4205 Bonaventure Boulevard	Weston	33332	71,000	Library
BL18	LIBRARY, LL, Lauderdale Lakes	3580 West Oakland Park Blvd	Lauderdale Lakes	33311	40,237	Library
BL19	LIBRARY, SL, Stirling Road	3151 Stirling Road	Hollywood	33312	60,000	Library
BL20	LIBRARY, NL, North Lauderdale	6601 Boulevard of Champions	North Lauderdale	33068	60,000	Library
BL21	LIBRARY, SN, Dan Pearl	10500 W Oakland Park Blvd	Sunrise	33351	49,500	Library
BL22	LIBRARY, MG, Margate	5810 Park Drive	Margate	33063	35,800	Library
BL23	LIBRARY, HL, Hallandale	300 South Federal Highway	Hallandale	33009	24,700	Library
BL24	LIBRARY, CP, Century Plaza	1890 Hillsboro Boulevard	Deerfield Beach	33441	31,682	Library
BL25	LIBRARY, DA, Dania Beach	1 Park Avenue, East	Dania	33004	14,970	Library
BL26	LIBRARY, CR, Carver Ranches	4733 SW 18th Street	West Park	33323	11,242	Library
BL27	LIBRARY, NW, Pompano Branch	1580 NW 3rd Avenue	Pompano Beach	33060	12,000	Library

Office and Court house

BO28	Public Safety complex	2602 West Broward Boulevard	Fort Lauderdale	33312	380,532	Mostly office
BO29	North Regional Courthouse	1600 W Hillsboro Blvd.	Deerfield Beach	33442	200,000	Courthouse
BO30	Government Center West	1 North University Dr.	Plantation	33324		Office

468,786

BO31	TRAF ENGN Administration North	2300 W Commercial Blvd	Fort Lauderdale	33309	116,932	Office
BO32	PARK Administration Complex	950 NW 38th St	Oakland Park	33309	140,803	Office
BO33	INTEG WAST South Landfill	6541- 7101 SW 205th Avenue	Fort Lauderdale	33332	17,847	Office

Health and Lab

BH34	central homeless assistance center	920 NW 7th Ave	Ft Laud	33311	100,984	Residence Hall/Dormitory
BH35	boohar building	3275 NW 99th Way	Coral Springs	33065	125,971	Residential Care Facility
BH36	north homeless assistance center	1700 Blount road	Pomp Bch	33069	98,339	Residence Hall/Dormitory
BH37	Family Success Center, N, Pompano	2011 NW 3rd Avenue	Pompano Beach	33060	57,465	Urgent Care/Clinic/Outpatient
BH38	Sexual Assault Treatment Center	400 NE 4th Street	Fort Lauderdale	33301	14,205	Medical Office
BH39	EPD Environmental Monitoring Facility & Laboratory	3211 College Avenue	Davie	33317	9,694	Laboratory
BH40	EAP Our House	408 NE 4th Street	Fort Lauderdale	33301	11,911	Medical Office

Parking, Warehouse and Repair

BR41	MASS TRAN, North Maintenance	3201 Copans Road	Pompano Beach	33069	795,189	Repair Services (Vehicle)
BR42	BSO Maintenance Facility	2001 NW 31st Avenue	Lauderdale Lakes	33311	194,800	Repair Services (Vehicle)
BR43	BCJC South Parking Garage	612 - 644 South Andrews Avenue	Fort Lauderdale	33301	370,804	Parking
BR44	HIGH & BRDG Mosquito Control, Pembroke	1200 South University Drive	Pembroke Park	33325	14,865	Repair Services (Vehicle)
BR45	South Maintenance Shop	8500 Griffin Road	Davie	33328	6,024	Repair Services (Vehicle)
BR46	MASS TRAN Northeast Terminal	304 Hammondville Boulevard	Pompano Beach	33060	2,000	Transportation Term/Stn

**EXHIBIT B
INVESTMENT GRADE AUDIT COSTS
Attachment 1**

Project No:
Project Title: Broward County
Consultant/ OpTerra Energy Services, Inc.
Sub Consultant :

Property Type	Audit Cost \$/sq.ft
Air-Conditioned Facility/Space	\$.17
Non-Conditioned Facility/Space	\$.13
Open Air Facility/Space	\$.01

Audit fee is calculated as follows:

Square Footage of Facility X Appropriate Rate = IGA Cost per Facility/Space

**EXHIBIT B, PROJECT COSTS
Attachment 2**

Project Title: Broward County
Consultant/ OpTerra Energy Services, Inc.

ESCO ID	Group "B" Property Name	Bld (ft ²)	\$/ft ²	Cost	Non-Bldg (ft ²)	Total Cost Non-Bldg (ft ²)
B Parks						
BP1	CD REGIONAL	50,516	\$ 0.17	\$ 8,588.00	4,708,320	\$ 3,950.00
BP2	TOPEEKEEGEE YUGNEE	44,378	\$ 0.17	\$ 7,544.00	5,992,602	\$ 1,650.00
BP3	EASTERLIN	36,194	\$ 0.17	\$ 6,153.00	2,235,896	\$ 900.00
BP4	TREE TOPS	26,103	\$ 0.17	\$ 4,438.00	10,545,038	\$ 400.00
BP5	LONG KEY	23,591	\$ 0.17	\$ 4,010.00	8,039,353	\$ 250.00
BP6	WEST LAKE / Anne Kolb NC	20,776	\$ 0.17	\$ 3,532.00	2,031,696	\$ 250.00
BP7	BRIAN PICCOLO	11,706	\$ 0.17	\$ 1,990.00	7,829,301	\$ 3,300.00
BP8	FERN FOREST	9,893	\$ 0.17	\$ 1,682.00	9,407,154	\$ -
BP9	PLANTATION HERITAGE	7,674	\$ 0.17	\$ 1,305.00	3,981,800	\$ 400.00
BP10	SECRET WOODS	7,257	\$ 0.17	\$ 1,234.00	2,457,695	\$ 250.00
BP11	HOLLYWOOD NORTH BEACH	4,000	\$ 0.17	\$ 680.00	676,000	\$ 400.00
BP12	SAW PALMETTO	160	\$ 0.17	\$ 27.00	923,605	\$ -
Libraries						
BL13	LIBRARY, AF, African American	183,712	\$ 0.17	\$ 31,231.00		
BL14	LIBRARY, SW, SW Regional	79,747	\$ 0.17	\$ 13,557.00		
BL15	LIBRARY, WR, West Regional	72,000	\$ 0.17	\$ 12,240.00		
BL16	LIBRARY, NO, North West Regional	72,000	\$ 0.17	\$ 12,240.00		
BL17	LIBRARY, WE, Weston	51,000	\$ 0.17	\$ 8,670.00		
BL18	LIBRARY, LL, Lauderdale Lakes	20,237	\$ 0.17	\$ 3,440.00		
BL19	LIBRARY, SL, Stirling Road	20,000	\$ 0.17	\$ 3,400.00		
BL20	LIBRARY, NL, North Lauderdale	20,000	\$ 0.17	\$ 3,400.00		
BL21	LIBRARY, SN, Dan Pearl	19,500	\$ 0.17	\$ 3,315.00		
BL22	LIBRARY, MG, Margate	15,800	\$ 0.17	\$ 2,686.00		
BL23	LIBRARY, HL, Hallandale	14,700	\$ 0.17	\$ 2,499.00		
BL24	LIBRARY, CP, Century Plaza	11,682	\$ 0.17	\$ 1,986.00		
BL25	LIBRARY, DA, Dania Beach	9,970	\$ 0.17	\$ 1,695.00		

BL26	LIBRARY, CR, Carver Ranches	6,242	\$	0.17	\$	1,061.00
BL27	LIBRARY, NW, Pompano Branch	4,000	\$	0.17	\$	680.00

Office and Court house

BO28	Public Safety complex	300,720	\$	0.17	\$	51,122.00
BO29	North Regional Courthouse	200,000	\$	0.17	\$	34,000.00
BO30	Government Center West	184,820	\$	0.17	\$	31,419.00
BO31	TRAF ENGN Administration North	71,346	\$	0.17	\$	12,129.00
BO32	PARK Administration Complex	35,296	\$	0.17	\$	6,000.00
BO33	INTEG WAST South Landfill	17,847	\$	0.17	\$	3,034.00

Health and Lab

BH34	central homeless assistance center	63,244	\$	0.17	\$	10,751.00
BH35	booyer building	53,060	\$	0.17	\$	9,020.00
BH36	north homeless assistance center	44,254	\$	0.17	\$	7,523.00
BH37	Family Success Center, N, Pompano	11,929	\$	0.17	\$	2,028.00
BH38	Sexual Assault Treatment Center	10,643	\$	0.17	\$	1,809.00
BH39	EPD Environmental Monitoring Facility & Lab	9,694	\$	0.17	\$	1,648.00
BH40	EAP Our House	1,127	\$	0.17	\$	192.00

Parking, Warehouse and Repair

BR41	MASS TRAN, North Maintenance	195,189	\$	0.17	\$	33,182.00
BR42	BSO Maintenance Facility	14,800	\$	0.17	\$	2,516.00
BR43	BCJC South Parking Garage (with offices)	14,397	\$	0.17	\$	2,447.00
BR44	HIGH & BRDG Mosquito Control, Pembroke	9,865	\$	0.17	\$	1,677.00
BR45	South Maintenance Shop	6,024	\$	0.17	\$	1,024.00
BR46	MASS TRAN Northeast Terminal	2,000	\$	0.17	\$	340.00

	Building (ft ²)	Building (ft ²) Cost	Non-Bldg (ft ²)	Cost Non-Bldg (ft ²)
Totals	2,089,093	\$ 355,144.00	58828460	\$ 11,750.00

EXHIBIT C
LETTERS OF INTENT

[Applicable when agreement has assigned CBE goals]
(NOT APPLICABLE for Part One Energy Audit)

Consultant represents that the CBE participants referenced in the attached Letters of Intent have agreed by written subcontract to perform the percentage of work amounts set forth and that the following information regarding participating Subcontractors is true and correct to the best of his/her knowledge.

EXHIBIT C-1
SCHEDULE OF SUBCONSULTANT PARTICIPATION
(NOT APPLICABLE for Part One Energy Audit)

Project No: Project Number
Project Title: Project Title
Facility Name: Facility Name

No.	Firm Name	Discipline
1.		
2		
3		
4		
5.		
6.		
7		
8		
9.		
10.		

Insurance Requirement Consultant Services

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	\$ 500 k	
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 <i>If exempt: State Exemption Certificate or letter on company letterhead is required.</i> <input checked="" type="checkbox"/> EMPLOYERS' LIABILITY	Chapter 440 FS	STATUTORY	U.S. Longshoremen & Harbor Workers' Act & Jones Act is required for any activities on or about navigable water
	(each accident)		
<input checked="" type="checkbox"/> PROFESSIONAL LIABILITY ~ E&O	(each accident)	\$ 1 mil	\$2 mil
	Extended reporting period	2 years	
<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		Completed Value form
DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES BROWARD COUNTY IS LISTED AS AN ADDITIONAL INSURED ON THE GENERAL LIABILITY POLICY REFERENCE: Energy Audit Consultant - FMD			

CERTIFICATE HOLDER:
Broward County
 115 South Andrews Avenue
 Fort Lauderdale, FL 33301
 Attn: Kevin Bellamy - FMD

FRANCISCO VASQUEZ
 Digitally signed by FRANCISCO VASQUEZ
 DN: cn=FRANCISCO VASQUEZ, ou=Organization, BCG, RM, Users, dc=cty, broward, bc
 Date: 2014.02.28 16:34:22 -05'00'
 Risk Management Division