

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: January 12, 2021 Consent Regular
 Workshop Public Hearing

Department: Engineering & Public Works Department
Submitted By: Engineering & Public Works Department
Submitted For: Roadway Production Division

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: an Annual Street Lighting System Design and Related Construction Engineering Inspection (CEI) Services contract with HBC Engineering Company (HBC).


SUMMARY: Approval of this contract will provide the professional services necessary for street lighting system design and related CEI services throughout Palm Beach County (County) on a work task order basis. The contract period for this contract is thirty-six months from the date of approval by the Board of County Commissioners (BCC). The Affirmative Procurement Initiative selected for this contract on June 3, 2020, by the Goal Setting Committee is a Small Business Enterprise (SBE) Evaluation Preference. HBC agreed to 100% SBE participation for the contract. HBC has a Palm Beach County office and is a certified SBE company. Countywide (YBH)


Background and Justification: On September 30, 2020, the Consultant's Competitive Negotiations Act Selection Committee selected HBC and, in accordance with PPM No. CW-O-048, the BCC was notified of the selection on October 5, 2020. The County is now contracting with HBC to provide the necessary professional services.

After reviewing the attached contract and finding it in proper order, the Engineering Department recommends BCC approval. Approval of this contract will ensure the continued process of professional services required by the County.

Attachments:

- 1. HBC Contract with Exhibits A, B, C, D & Ebix Insurance Compliance (2)

Recommended by: YBH/TEL  County Engineer 12-3-2020
Date

Approved By: Pal  Assistant County Administrator 12/15/20
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2021	2022	2023	2024	2025
Capital Expenditures	\$ -0-	-0-	-0-	-0-	-0-
Operating Costs	-0-	-0-	-0-	-0-	-0-
External Revenues	-0-	-0-	-0-	-0-	-0-
Program Income (County)	-0-	-0-	-0-	-0-	-0-
In-Kind Match (County)	-0-	-0-	-0-	-0-	-0-
NET FISCAL IMPACT	\$ -0-	-0-	-0-	-0-	-0-
# ADDITIONAL FTE POSITIONS (Cumulative)	_____	_____	_____	_____	_____

Is Item Included in Current Budget? Yes No
 Does this item include the use of federal funds? Yes No X

Budget Account No:

Fund Dept Unit Object

Recommended Sources of Funds/Summary of Fiscal Impact:

** Fiscal impact is indeterminable at this time. This firm is authorized to provide services on a task order basis. Funding will be established by project as necessary.

C. Departmental Fiscal Review: Dhruv

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Dev. and Control Comments:

 Drew Menten 12/18/2020
 OFMB 8/21/18 D. J. Jacoby
 Contract Dev. and Control 12-11-20 TW 12/14/2020

B. Approved as to Form and Legal Sufficiency:

 for. VBH 12/16/2020
 Assistant County Attorney

C. Other Department Review:

 Department Director

This summary is not to be used as a basis for payment.

Attachment 1

**CONTRACT FOR PROFESSIONAL SERVICES
BY AND BETWEEN PALM BEACH COUNTY
AND HBC ENGINEERING COMPANY FOR
ANNUAL STREET LIGHTING SYSTEM DESIGN AND RELATED CONSTRUCTION
ENGINEERING INSPECTION (CEI) SERVICES ON A WORK TASK ORDER BASIS**

This Contract for Annual Street Lighting System Design and Related Construction Engineering Inspection (CEI) Services (PROJECT) is made as of the _____ day of _____, 20____ (CONTRACT) by and between Palm Beach County, a political subdivision of the State of Florida, by and through its Board of Commissioners (COUNTY) and HBC Engineering Company, a Florida for Profit Corporation (CONSULTANT) whose Federal ID is 22-3936061 (individually Party and collectively Parties).

The COUNTY intends to have the CONSULTANT provide street lighting system design and related CEI services required for County User Departments on an as needed basis herein after referred to as the PROJECT.

In consideration of the mutual promises contained herein, the COUNTY and the CONSULTANT agree as follows:

The following Exhibits are attached to and made a part of this CONTRACT.

Exhibit A - Scope of Work

Exhibit B - Fee Schedule

Exhibit C – Affirmative Procurement Initiatives for Professional Services Contracts

Exhibit D – OEBO Schedules 1 and 2

ARTICLE 1 - SERVICES

1.1 GENERAL - The CONSULTANT'S responsibility under this CONTRACT is to provide professional/consultation services in the area of street lighting system design and related inspection (CEI) on a work task order basis as needed, as more specifically set forth in the Scope of Work detailed in **Exhibit A**.

1.1.1 The COUNTY'S representative/liaison during the performance of this CONTRACT shall be Morton L. Rose, P.E., telephone no. (561) 684-4150. This person shall have complete authority to transmit instructions, receive information, interpret and define the COUNTY policies and decisions with respect to the CONSULTANT'S services for the PROJECT.

Street Lighting System Design and Related Construction Engineering Inspection (CEI) Annual Contract

- 1.1.2 The CONSULTANT'S representative/liason during the performance of this CONTRACT shall be Adebayo Coker, P.E., telephone no. 561-899-4438.
- 1.1.3 This CONTRACT period is for thirty-six (36) months from the date of the Board of County Commissioners' approval.
- 1.1.4 The User Departments will negotiate work task orders on an as needed basis. The CONSULTANT shall provide a work schedule as part of their scope and fee proposal for each work task order. No work task orders are guaranteed as part of this CONTRACT.
- 1.1.5 At the CONSULTANT'S request, but no more frequently than once every twelve (12) calendar months, the unburdened (raw) rates may be adjusted by negotiation as an "equitable adjustment", if the cost of living index (Consumer Price Index (CPI)) supports an increase. However, the multiplier agreed to under the original contract SHALL NOT be changed.
- 1.1.6 The period of service shall continue until completion of all phases or any outstanding additional service authorizations issued within the period of the CONTRACT, unless otherwise terminated as provided herein.

1.2 - BASIC SERVICES - The CONSULTANT shall prepare all plans in accordance with Palm Beach County Thoroughfare Design Procedures, current standards adopted by the Americans with Disabilities Act (ADA), American Association of State Highway and Transportation Officials (AASHTO), the Florida Department of Transportation Manual of Uniform Minimum Standards, and all other applicable professional and technical standards. Plans shall be based on the North American Datum of 1983 (NAD 83) 1990 Adjustment and the North American Vertical Datum of 1988 (NAVD 88). Plans shall be accurate, legible, complete in design, drawn to scale, and shall be suitable for bidding purposes, unless otherwise stated in **Exhibit A**.

- 1.2.1 The CONSULTANT has, during the selection and negotiation process which has preceded this CONTRACT, represented to the COUNTY that the CONSULTANT is possessed of that level of skill, knowledge, experience and expertise that is commensurate with engineering firms of national repute in the areas of practice required for this PROJECT. The CONSULTANT acknowledges that the COUNTY has relied on the CONSULTANT'S representations of skill, knowledge, experience and expertise. By executing this CONTRACT, the CONSULTANT agrees that the CONSULTANT will exercise that degree of care, knowledge, skill and ability as other engineering firms possessing the degree of skill, knowledge, experience and expertise which the CONSULTANT has claimed. The CONSULTANT shall perform such duties as may be assigned without neglect. The CONSULTANT covenants with the COUNTY to cooperate with the COUNTY and to utilize the CONSULTANT'S skill, efforts and judgment commensurate with engineering firms of national repute in the areas of practice

Street Lighting System Design and Related Construction Engineering Inspection (CEI) Annual Contract

required for this PROJECT. The CONSULTANT agrees to perform each assignment in an efficient and economical manner consistent with the COUNTY'S interests and consistent with the COUNTY'S stated objectives and recognized professional engineering standards.

1.2.2 Prior to commencement of study/design, the CONSULTANT shall become familiar with the needs of COUNTY Microstation standards, obtain any seed or Microstation files, CADD standards, and standard sheets so that Microstation deliverables can be utilized by the COUNTY. CONSULTANT shall submit electronic files (in Microstation compatible format and Adobe PDF format) of the study/design, survey, and any related data used for the PROJECT, with the final document(s) submittal, or when otherwise directed by COUNTY.

1.2.3 The CONSULTANT shall provide to the COUNTY all cost summaries/estimates and Summary of Pay Items in an electronic file (as requested). The CONSULTANT shall apply descriptions to the pay items as called out in the COUNTY'S Standard Nomenclature listing, which is available on the following website <http://discover.pbcgov.org/engineering/roadwayproduction/Pages/CCNA.aspx>.

Since CONSULTANT has no control over the cost of labor, materials, equipment or services furnished by others, or over the contractor(s)' methods of determining prices, or over competitive bidding or market conditions, the CONSULTANT'S opinions of probable construction cost provided for herein are to be made on the basis of the CONSULTANT'S experience and qualifications and represent the CONSULTANT'S best judgment as an experienced and qualified professional engineer, familiar with the construction industry; but the CONSULTANT cannot and does not guarantee that proposals, bids or construction costs will not vary from opinions of probable cost prepared by the CONSULTANT. If prior to the Bidding or Negotiating Phase, the COUNTY wishes greater assurance as to construction costs, the COUNTY shall employ an independent cost estimator.

1.3 – REIMBURSABLE SERVICES – These services shall be listed in the Fee Schedule, **Exhibit B** and will include such fixed cost items as permit fees, reprographics fees, and certain subconsultant fees as negotiated.

1.4 – OPTIONAL SERVICES – REQUIRING AUTHORIZATION IN ADVANCE If authorized in writing by the COUNTY'S authorized representative, the CONSULTANT shall furnish or obtain from others Optional Services. These services shall be listed in the Fee Schedule, **Exhibit B** and will include such items as post design services, contingent services and certain subconsultant fees as negotiated. These will be paid for by the COUNTY, only when specifically authorized and in accordance with Article 3 of this CONTRACT.

1.5 - SUPPLEMENTAL SERVICES– REQUIRING AUTHORIZATION IN ADVANCE - If authorized in writing by the COUNTY'S authorized representative, the CONSULTANT shall

Street Lighting System Design and Related Construction Engineering Inspection (CEI) Annual Contract

furnish or obtain from others services of the types listed below in paragraphs 1.5.1 through 1.5.9 inclusive. These services are not included as part of Basic Services except to the extent provided otherwise in the Fee Schedule, **Exhibit B**. These will be paid for by the COUNTY, only when specifically authorized and in accordance with Article 3 of this CONTRACT.

- 1.5.1 Preparation of applications and supporting documents for governmental grants, loans or advances in connection with the PROJECT.
- 1.5.2 Services to make measured drawings of or to investigate existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by the COUNTY.
- 1.5.3 Services resulting from significant changes in the general scope, extent or character of the PROJECT including, but not limited to:
 - change in PROJECT size
 - change in PROJECT complexity
 - change in the COUNTY'S schedule
 - change in the character of construction
 - change in the method of financing
 - revising previously accepted studies, reports, design documents or contract documents when such revisions are required by changes in laws, rules, regulations, ordinances, codes or orders enacted subsequent to the preparation of such studies, reports or documents, or are due to any other causes beyond the CONSULTANT'S control
- 1.5.4 Preparing documents for alternate bids requested by the COUNTY for contractor(s) work which is not executed or documents for out-of-sequence work.
- 1.5.5 Furnishing the services of a special consultant for any services not covered in **Exhibit A**.
- 1.5.6 Services during out-of-town travel required of the CONSULTANT other than visits to the site or the COUNTY'S office as required by Section 1.2 of Article 1 of this CONTRACT.
- 1.5.7 Assistance in connection with a bid protest, rebidding or renegotiating a contract for construction, materials, equipment or services.
- 1.5.8 Preparing to serve or serving as a consultant or witness for the COUNTY in any litigation or other legal proceeding involving the PROJECT.
- 1.5.9 Additional services in connection with the PROJECT, including services which are to be furnished by the COUNTY in accordance with Section 1.4 of this CONTRACT, and services not otherwise provided for in this CONTRACT.

1.6 - COUNTY'S RESPONSIBILITY - The COUNTY shall do the following in a timely manner so as not to delay the services of the CONSULTANT.

Street Lighting System Design and Related Construction Engineering Inspection (CEI) Annual Contract

- 1.6.1 Provide all criteria and full information as to the COUNTY'S requirements for the PROJECT, including study/design objectives and constraints, space, capacity and performance requirements, flexibility and expendability, and any budgetary limitations; and furnish copies of all design and construction standards which the COUNTY will require to be included in the drawings and specifications.
- 1.6.2 Assist the CONSULTANT by providing all available information pertinent to the PROJECT including previous reports and any other data relative to study/design or construction of the PROJECT.
- 1.6.3 Furnish to the CONSULTANT the deliverables listed in **Exhibit A**.
- 1.6.4 Arrange for access to and make all provisions for the CONSULTANT to enter upon public and private property as reasonably required for the CONSULTANT to perform services under this CONTRACT.
- 1.6.5 Examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by the CONSULTANT, obtain advice of an attorney, insurance counselor and other consultants as the COUNTY deems appropriate for such examination and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of the CONSULTANT.
- 1.6.6 Furnish approvals and permits from all governmental authorities having jurisdiction over the PROJECT and such approvals and consents from others as may be necessary for completion of the PROJECT.
- 1.6.7 Providing such legal, accounting, independent cost estimating and insurance counseling services as may be required for the PROJECT, and such auditing service as COUNTY may require to ascertain how or for what purpose any contractor has used the monies paid to him.
- 1.6.8 Attend the pre-bid conference, bid opening, preconstruction conference, construction progress and other job related meetings and substantial completion inspections and final payment inspections.
- 1.6.9 Give reasonable notice to the CONSULTANT whenever the COUNTY observes or otherwise becomes aware of any development that affects the scope or timing of the CONSULTANT'S services, or any defect or non-conformance in the work of any contractor.
- 1.6.10 Furnish, or direct the CONSULTANT to provide, Optional or Supplemental Services pursuant to Sections 1.4 and 1.5 of this CONTRACT as required.

ARTICLE 2 - SCHEDULE

2.1 – NOTICE TO PROCEED - The COUNTY will issue a written Notice to Proceed for each work task order to the CONSULTANT within sixty (60) days of each work task order’s execution by the COUNTY. The CONSULTANT will immediately commence work on each work task order and all schedule dates shall be determined from the date of the Notice to Proceed. Final completion of all work under each work task orders shall be in accordance with the Schedule, as shown in each work task order, or as otherwise approved in writing by the COUNTY.

2.2 – DELIVERABLES - Deliverables shall be defined as progress reports, prepared maps, bid documents, completed drawings, specific reports, work plans, documentation of meetings attended, assessment study reports, analysis reports, summary reports, recommendation reports and related draft reports and verifiable deliverables. Deliverables shall be provided to the County in accordance with the scope and schedule negotiated in each work task order.

ARTICLE 3 - PAYMENTS TO CONSULTANT - The total amount to be paid by the COUNTY under this CONTRACT for all services and materials including, if applicable, out of pocket expenses (specified in paragraph 3.3 below) shall not exceed a total contract amount set in each work task order. The CONSULTANT shall notify the COUNTY's representative in writing when 90% of the not to exceed amount has been reached. The CONSULTANT will bill the COUNTY on a monthly basis, or as otherwise provided, at the amounts set forth in each work task order for services rendered toward the completion of the Scope of Work. Where incremental billings for partially completed items are permitted, the total billings shall not exceed the estimated percentage of completion as of the billing date.

3.1 – CONTRACT MULTIPLIER – The Contract Multiplier for this CONTRACT is **3.0**. Salary costs times the Contract Multiplier for services rendered by principals and employees assigned to the PROJECT plus all reimbursable expenses shall be utilized in computing fees. Contract Multiplier is defined in Palm Beach County Policy and Procedure Manual CW-F-066.

3.2 - BASIC SERVICES - The COUNTY will pay the CONSULTANT the lump sum for completion of the Basic Services set forth in each work task order.

3.3 - REIMBURSABLE OUT-OF-POCKET EXPENSES - Reimbursable Out-of-pocket expenses will be reimbursed up to a not to exceed amount set forth in each work task order, and in accordance with the list of the types and amounts of expenditures eligible for reimbursement as set forth in each work task order.

3.3.1 All requests for payment of out-of-pocket expenses eligible for reimbursement under the terms of this CONTRACT shall include copies of paid receipts, invoices, or other documentation acceptable to the Palm Beach County Financial Management and Budget Department. Such documentation shall be sufficient to establish that the expense was incurred and necessary in the performance of the Scope of Work described in this CONTRACT. Any travel, per diem, mileage, meals, or lodging expenses which may be

Street Lighting System Design and Related Construction Engineering Inspection (CEI) Annual Contract

reimbursable under the terms of this CONTRACT will be paid in accordance with the rates and conditions set forth in Section 112.061, Florida Statutes.

3.3.2 Reimbursable Expenses shall mean the expenses of soils testing, printing and similar PROJECT related items when authorized by the COUNTY, in accordance with law.

3.4 - OPTIONAL SERVICES

The COUNTY will pay the CONSULTANT for completion of the Optional Services set forth in each work task order when the provision of each service is specifically authorized in writing by the COUNTY. These expenses will not exceed the amount set forth in each work task order without additional authorization from the COUNTY.

3.5 – SUPPLEMENTAL SERVICES - Additional services and reimbursable expenses authorizations shall be issued in accordance with COUNTY policies and procedures.

3.5.1 For services rendered by the CONSULTANT'S principals and employees as consultants or witnesses in any litigation, arbitration or other legal or administrative proceeding in accordance with Section 1.5.8 of this CONTRACT. at the rate of **\$800.00** per day or any portion thereof (but compensation for time spent in preparing to appear in any such litigation, arbitration or proceeding will be on the basis provided in Section 3.1 of Article 3 of this CONTRACT).

3.6 – INVOICES - Invoices received from the CONSULTANT pursuant to this CONTRACT will be reviewed and approved by the COUNTY'S representative, to verify that services have been rendered in conformity with the CONTRACT. Approved invoices will then be sent to the Finance Department for payment. Invoices will normally be paid within thirty (30) days following the COUNTY representative's approval.

3.6.1 Progress reports and/or payment invoices shall be submitted monthly by the CONSULTANT for each work task order. Payments to the CONSULTANT shall be in proportion to the percentage of engineering services approved and accepted by the COUNTY based on said lump sum fee until 90% of the Basic Services are completed. There will be no additional payments until all Services, including permits, but with the exception of any Optional Services, are completed and accepted by the COUNTY for each work task order.

3.6.2 Final Invoice: In order for both parties herein to close their books and records, the CONSULTANT will clearly state “final invoice” on the CONSULTANT'S final/last billing to the COUNTY for each work task order. This shall constitute CONSULTANT’S certification that all services have been properly performed and all charges and costs have been invoiced to Palm Beach County. Any other charges not properly included on this final invoice are waived by the CONSULTANT.

Street Lighting System Design and Related Construction Engineering Inspection (CEI) Annual Contract

- 3.6.3 Upon satisfactory completion of all Services, including permits, described in this CONTRACT and approval and acceptance of the plans by the COUNTY full payment for all completed Services provided, will be made and the work task order will be closed. If the CONTRACT has an authorization for Post Design Services the work task order will remain open until all Post Design Services (if applicable) are complete.
- 3.6.4 Final payment shall be due and payable to the CONSULTANT upon satisfactory completion, approval and acceptance by the COUNTY, of all the Services described in the work task order, including Post Design Services.
- 3.6.5 Due to the nature of the work flow and the small size of expected projects to be performed by the CONSULTANT, the COUNTY recognizes that the purpose of withholding retainage may not be applicable for all projects and the COUNTY may waive the requirement upon written request from the CONSULTANT.

3.7 - OTHER PROVISIONS CONCERNING PAYMENTS

- 3.7.1 If this CONTRACT is terminated prior to its completion other than due to default on the part of the CONSULTANT, the CONSULTANT shall be paid for Basic Services called for under Section 1 an amount equal to the percentage complete at the time of termination, times the lump sum fee stated in Article 3 of this CONTRACT. Further, the CONSULTANT shall be paid for the completed portion of reimbursable and optional services authorized under Article 3 of this CONTRACT, in accordance with Section 3.3 and 3.4 of this CONTRACT.
- 3.7.2 Records of the CONSULTANT'S Salary Costs pertinent to the CONSULTANT'S compensation under this CONTRACT will be kept in accordance with generally accepted accounting practices. Copies will be made available to the COUNTY on request prior to final payment for the CONSULTANT'S services.
- 3.7.3 The Salary Costs used as a basis for payment shall mean the salaries and wages paid to principals and employees engaged on the PROJECT. Time spent on this PROJECT by stenographers, typists and clerk skills shall not be charged to the PROJECT nor shall any fringe benefits such as social security contributions, unemployment, excise and payroll taxes, workman's compensation, etc., be included in the Salary Costs.
- 3.7.4 In order to do business with Palm Beach County, CONSULTANTS are required to create a Vendor Registration Account OR activate an existing Vendor Registration Account through the Purchasing Department's Vendor Self Service (VSS) system, which can be accessed at

<https://pbcvssp.co.palm-beach.fl.us/webapp/vssp/AltSelfService>

If CONSULTANT intends to use sub-consultants, CONSULTANT must also ensure that all sub-consultants are registered as consultants in VSS. All subcontractor agreements

Street Lighting System Design and Related Construction Engineering Inspection (CEI) Annual Contract

must include a contractual provision requiring that the sub-consultant register in VSS. COUNTY will not finalize a contract award until the COUNTY has verified that the CONSULTANT and all of its sub-consultants are registered in VSS.

ARTICLE 4 - TRUTH-IN-NEGOTIATION CERTIFICATE

4.1 Signature of this CONTRACT by the CONSULTANT shall also act as the execution of a truth-in-negotiation certificate certifying that the wage rates, over-head charges, and other costs used to determine the compensation provided for in this CONTRACT are accurate, complete and current as of the date of the CONTRACT and no higher than those charged the CONSULTANT'S most favored customer for the same or substantially similar service.

4.2 The said rates and costs shall be adjusted to exclude any significant sums should the COUNTY determine that the rates and costs were increased due to inaccurate, incomplete or noncurrent wage rates or due to inaccurate representations of fees paid to outside consultants. The COUNTY shall exercise its rights under this Article 4 of this CONTRACT within three (3) years following final payment.

ARTICLE 5 – TERMINATION - This CONTRACT may be terminated by the CONSULTANT upon sixty (60) days' prior written notice to the COUNTY in the event of substantial failure by the COUNTY to perform in accordance with the terms of this CONTRACT through no fault of the CONSULTANT. It may also be terminated, in whole or in part, by the COUNTY, with cause upon five (5) business days written notice to the CONSULTANT or without cause upon ten (10) business days written notice to the CONSULTANT. Unless the CONSULTANT is in breach of this CONTRACT, the CONSULTANT shall be paid for services rendered to the COUNTY'S satisfaction through the date of termination. After receipt of a Termination Notice, except as otherwise directed by the COUNTY, in writing, the CONSULTANT shall:

- A. Stop work on the date and to the extent specified.
- B. Terminate and settle all orders and subcontracts relating to the performance of the terminated work.
- C. Transfer all work in process, completed work, and other materials related to the terminated work to the COUNTY.
- D. Continue and complete all parts of the work that have not been terminated.

ARTICLE 6 - PERSONNEL

- 6.1 The CONSULTANT represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this CONTRACT. Such personnel shall not be employees of or have any contractual relationship with the COUNTY.
- 6.2 All of the services required herein under shall be performed by the CONSULTANT or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services.
- 6.3 Any changes or substitutions in the CONSULTANT'S key personnel, as may be listed in **Exhibit A**, must be made known to the COUNTY'S representative and written approval must be granted by the COUNTY's representative before said change or substitution can become effective.
- 6.4 The CONSULTANT warrants that all services shall be performed by skilled and competent personnel to the highest professional standards in the field.
- 6.5 All of the CONSULTANT'S personnel (and all Subcontractors), while on County premises, will comply with all COUNTY requirements governing conduct, safety and security.
- 6.6 During the term of this Contract, the COUNTY may require professional services that are the same or similar to those described in this CONTRACT. The COUNTY may, at its sole discretion, obtain said services in accordance with the State of Florida Consultants Competitive Negotiation Act. If the COUNTY so elects, it is mutually understood that the relationship between the CONSULTANT and the COUNTY under this CONTRACT shall be considered as neither barring the CONSULTANT from, nor granting special consideration to the CONSULTANT, in participating in the selection process for a consultant to provide such additional services.

ARTICLE 7 - SUBCONTRACTING

- 7.1 The COUNTY reserves the right to accept the use of a subconsultant or to reject the selection of a particular subconsultant and to inspect all facilities of any subcontractors in order to make a determination as to the capability of the subconsultant to perform properly under this CONTRACT. The CONSULTANT is encouraged to seek additional small business enterprises for participation in subcontracting opportunities. If the CONSULTANT uses any subconsultants on this CONTRACT the following provisions of this Article shall apply:
- 7.2 If a subconsultant fails to perform or make progress, as required by this CONTRACT, and it is necessary to replace the subconsultant to complete the work in a timely fashion, the CONSULTANT shall promptly do so, subject to acceptance of the new subconsultant by the COUNTY.

Street Lighting System Design and Related Construction Engineering Inspection (CEI) Annual Contract

7.3 It is the policy of the COUNTY that all segments of its business population including, but not limited to, small, local, minority and women owned businesses, have an equitable opportunity to participate in the COUNTY's procurement process, prime contract and subcontract opportunities. In pursuance of that policy, the COUNTY adopted an Equal Business Opportunity (EBO) Ordinance which is codified in Sections 2-80.20 through 2-80.30 (as may be amended) of the Palm Beach County Code. The EBO Ordinance sets forth the COUNTY's requirements for the EBO program, and is incorporated herein and made part of this CONTRACT. Non-compliance with the EBO Ordinance must be corrected within fifteen (15) days of notice of non-compliance. Failure to comply with the EBO Ordinance may result in any of the following penalties:

- Suspension of CONTRACT;
- Withholding of funds;
- Termination of the CONTRACT based upon a material breach of contract pertaining to the EBO Program compliance;
- Suspension or debarment of CONSULTANT from eligibility for providing goods or services to the COUNTY for a period not to exceed three (3) years; and
- Liquidated damages equal to the difference in dollar value of S/M/WBE participation as committed to in the CONTRACT, and the dollar value of S/M/WBE participation as actually achieved.

7.4 The CONSULTANT must adhere to the Affirmative Procurement Initiatives (APIs) as incorporated herein as **Exhibit C**, including the Request for Proposals (RFP), and the specifications set forth in CONSULTANT's response, which are both incorporated herein by reference. Failure to comply with this Article 7 is a material breach of this CONTRACT.

- i. CONSULTANT shall report all subconsultant payment information on EBO forms 3a and 4, or as otherwise required by EBO, and, when the EBO portal is available, input subconsultant payment information directly into the COUNTY's contract management system.

CONSULTANT shall pay subconsultants undisputed amounts within ten (10) days after COUNTY pays the CONSULTANT. In the event of a disputed invoice, the CONSULTANT shall send the subconsultant(s) and COUNTY a written notice of the dispute within five (5) days after receipt of the subject invoice.

- ii. CONSULTANT must notify the Office of EBO of changes in S/M/WBE utilization and get prior approval for any substitutions.

7.5 The CONSULTANT agrees to pay its subconsultants in compliance with the Florida Prompt Payment Act. In the event CONSULTANT fails to comply with payments(s) to its subconsultants in accordance with the Florida Prompt Payment Act, CONSULTANT shall be

Street Lighting System Design and Related Construction Engineering Inspection (CEI) Annual Contract

subject to any and all penalties and sanctions available under the terms of the EBO Program, its contract with the COUNTY, or any other applicable law.

7.6 The Office of EBO has the right to review CONSULTANT's records and interview Subconsultants.

ARTICLE 8 - FEDERAL AND STATE TAX

8.1 The COUNTY is exempt from payment of Florida State Sales and Use Taxes. The COUNTY will sign an exemption certificate submitted by the CONSULTANT. The CONSULTANT shall not be exempted from paying sales tax to its suppliers for materials used to fulfill contractual obligations with the COUNTY, nor is the CONSULTANT authorized to use the COUNTY'S Tax Exemption Number in securing such materials.

8.2 The CONSULTANT shall be responsible for payment of its own and its share of its employees' payroll, payroll taxes, and benefits with respect to this CONTRACT.

ARTICLE 9 - AVAILABILITY OF FUNDS

9.1 The COUNTY'S performance and obligation to pay under this CONTRACT for subsequent fiscal years are contingent upon annual appropriations for its purpose by the Board of County Commissioners.

ARTICLE 10 - INSURANCE

10.1 CONSULTANT shall, at its sole expense, agree to maintain in full force and effect at all times during the life of this CONTRACT, insurance coverages and limits (including endorsements), as described herein. CONSULTANT shall agree to provide the COUNTY with at least ten (10) day prior notice of any cancellation, non-renewal or material change to the insurance coverages. The requirements contained herein, as well as COUNTY'S review or acceptance of insurance maintained by CONSULTANT are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by CONSULTANT under the CONTRACT.

10.2 Commercial General Liability - CONSULTANT shall maintain Commercial General Liability at a limit of liability not less than **\$500,000** Each Occurrence. Coverage shall not contain any endorsement excluding Contractual Liability or Cross Liability unless granted in writing by County's Risk Management Department. CONSULTANT shall provide this coverage on a primary basis.

10.3 Business Automobile Liability - CONSULTANT shall maintain Business Automobile Liability at a limit of liability not less than **\$500,000** Each Accident for all owned, non-owned and hired automobiles. In the event CONSULTANT doesn't own any automobiles, the Business Auto Liability requirement shall be amended allowing CONSULTANT to agree to maintain only Hired & Non-Owned Auto Liability. This amended requirement may be satisfied by way of endorsement

Street Lighting System Design and Related Construction Engineering Inspection (CEI) Annual Contract

to the Commercial General Liability, or separate Business Auto coverage form. CONSULTANT shall provide this coverage on a primary basis.

10.4 Worker's Compensation Insurance & Employers Liability - CONSULTANT shall maintain Worker's Compensation & Employers Liability in accordance with Florida Statute Chapter 440. CONSULTANT shall provide this coverage on a primary basis.

10.5 Professional Liability - CONSULTANT shall maintain Professional Liability or equivalent Errors & Omissions Liability at a limit of liability not less than **\$1,000,000** Each Claim. When a self-insured retention (SIR) or deductible exceeds **\$10,000**, COUNTY reserves the right, but not the obligation, to review and request a copy of CONSULTANT'S most recent annual report or audited financial statement. For policies written on a "Claims-Made" basis, CONSULTANT shall maintain a Retroactive Date prior to or equal to the effective date of this CONTRACT. The Certificate of Insurance providing evidence of the purchase of this coverage shall clearly indicate whether coverage is provided on an "occurrence" or "claims - made" form. If coverage is provided on a "claims - made" form the Certificate of Insurance must also clearly indicate the "retroactive date" of coverage. In the event the policy is canceled, non-renewed, switched to an Occurrence Form, retroactive date advanced, or any other event triggering the right to purchase a Supplement Extended Reporting Period (SERP) during the life of this CONTRACT, CONSULTANT shall purchase a SERP with a minimum reporting period not less than 3 years. CONSULTANT shall provide this coverage on a primary basis.

10.6 Additional Insured - CONSULTANT shall endorse the COUNTY as an Additional Insured with a CG 2026 Additional Insured - Designated Person or Organization endorsement, or its equivalent, to the Commercial General Liability. The Additional Insured endorsement shall read "Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees and Agents." CONSULTANT shall provide the Additional Insured endorsements coverage on a primary basis.

10.7 Waiver of Subrogation - CONSULTANT hereby waives any and all rights of Subrogation against the County, its officers, employees and agents for each required policy. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement to the policy, then CONSULTANT shall agree to notify the insurer and request the policy be endorsed with a Waiver of Transfer of rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which specifically prohibits such an endorsement, or which voids coverage should CONSULTANT enter into such an agreement on a pre-loss basis.

10.8 Certificate(s) of Insurance - Prior to execution of this CONTRACT, CONSULTANT shall deliver to the COUNTY'S representative as identified in Article 26, a Certificate(s) of Insurance evidencing that all types and amounts of insurance coverages required by this CONTRACT have been obtained and are in full force and effect. Such Certificate(s) of Insurance shall include a minimum ten (10) day endeavor to notify due to cancellation or non-renewal of coverage. The certificate of insurance shall be issued to

Street Lighting System Design and Related Construction Engineering Inspection (CEI) Annual Contract

Palm Beach County
c/o Engineering Department / Roadway Production
2300 N. Jog Road 3rd Floor West
West Palm Beach, FL 33411

10.9 Umbrella or Excess Liability - If necessary, CONSULTANT may satisfy the minimum limits required above for Commercial General Liability, Business Auto Liability, and Employer's Liability coverage under Umbrella or Excess Liability. The Umbrella or Excess Liability shall have an Aggregate limit not less than the highest "Each Occurrence" limit for either Commercial General Liability, Business Auto Liability, or Employer's Liability. The COUNTY shall be specifically endorsed as an "Additional Insured" on the Umbrella or Excess Liability, unless the Certificate of Insurance notes the Umbrella or Excess Liability provides coverage on a "Follow-Form" basis.

10.10 Right to Review - COUNTY, by and through its Risk Management Department, in cooperation with the contracting/monitoring department, reserves the right to review, modify, reject or accept any required policies of insurance, including limits, coverages, or endorsements, herein from time to time throughout the term of this CONTRACT. COUNTY reserves the right, but not the obligation, to review and reject any insurer providing coverage because of its poor financial condition or failure to operate legally.

ARTICLE 11 – INDEMNIFICATION - CONSULTANT shall indemnify and hold harmless COUNTY, and its officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of CONSULTANT and other persons employed or utilized by the CONSULTANT in the performance of the CONTRACT.

ARTICLE 12 - SUCCESSORS AND ASSIGNS - The COUNTY and the CONSULTANT each binds itself and its partners, successors, executors, administrators and assigns to the other party and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this CONTRACT. Except as above, neither the COUNTY nor the CONSULTANT shall assign, sublet, convey or transfer its interest in this CONTRACT without the prior written consent of the other.

ARTICLE 13 - REMEDIES - This CONTRACT shall be governed by the laws of the State of Florida. Any legal action necessary to enforce the CONTRACT will be held in a court of competent jurisdiction located in Palm Beach County, Florida. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity, by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

Street Lighting System Design and Related Construction Engineering Inspection (CEI) Annual Contract

13.1 No provision of this CONTRACT is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this CONTRACT, including but not limited to any citizen or employees of the COUNTY and/or CONSULTANT.

ARTICLE 14 - CONFLICT OF INTEREST - The CONSULTANT represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required hereunder, as provided for in Chapter 112, Part III, Florida Statutes, and the Palm Beach County Code of Ethics. The CONSULTANT further represents that no person having any such conflict of interest shall be employed for said performance of services.

14.1 The CONSULTANT shall promptly notify the COUNTY's representative, in writing, by certified mail, of all potential conflicts of interest of any prospective business association, interest or other circumstance which may influence or appear to influence the CONSULTANT'S judgement or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the CONSULTANT may undertake and request an opinion of the COUNTY as to whether the association, interest or circumstance would, in the opinion of the COUNTY, constitute a conflict of interest if entered into by the CONSULTANT. The COUNTY agrees to notify the CONSULTANT of its opinion by certified mail within thirty (30) days of receipt of notification by the CONSULTANT. If, in the opinion of the COUNTY, the prospective business association, interest or circumstance would not constitute a conflict of interest by the CONSULTANT, the COUNTY shall so state in the notification and the CONSULTANT shall, at its option, enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with respect to services provided to the COUNTY by the CONSULTANT under the terms of this CONTRACT.

ARTICLE 15 - EXCUSABLE DELAYS - The CONSULTANT shall not be considered in default by reason of any failure in performance if such failure arises out of causes reasonably beyond the control of the CONSULTANT or its subcontractors and without their fault or negligence. Such causes include, but are not limited to, acts of God, force majeure, natural or public health emergencies, labor disputes, freight embargoes, and abnormally severe and unusual weather conditions.

15.1 Upon the CONSULTANT'S request, the COUNTY shall consider the facts and extent of any failure to perform the work and, if the CONSULTANT'S failure to perform was without it or its subcontractors fault or negligence, the Contract Schedule and/or any other affected provision of this CONTRACT shall be revised accordingly, subject to the COUNTY'S rights to change, terminate, or stop any or all of the work at any time.

ARTICLE 16 - ARREARS - The CONSULTANT shall not pledge the COUNTY'S credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgement, lien, or

Street Lighting System Design and Related Construction Engineering Inspection (CEI) Annual Contract

any form of indebtedness. The CONSULTANT further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this CONTRACT.

ARTICLE 17 - DISCLOSURE AND OWNERSHIP OF DOCUMENTS

17.1 The CONSULTANT shall deliver to the COUNTY's representative for approval and acceptance, and before being eligible for final payment of any amounts due, all documents and materials prepared by and for the COUNTY under this CONTRACT.

17.2 To the extent allowed by Chapter 119, Florida Statutes, all written and oral information not in the public domain or not previously known, and all information and data obtained, developed, or supplied by the COUNTY or at its expense will be kept confidential by the CONSULTANT and will not be disclosed to any other party, directly or indirectly, without the COUNTY'S prior written consent unless required by a lawful court order. All drawings, maps, sketches, programs, data base, reports and other data developed, or purchased, under this CONTRACT for or at the COUNTY'S expense shall be and remain the COUNTY'S property and may be reproduced and reused at the discretion of the COUNTY.

17.3 All covenants, agreements, representations and warranties made herein, or otherwise made in writing by any party pursuant hereto, including but not limited to any representations made herein relating to disclosure or ownership of documents, shall survive the execution and delivery of this CONTRACT and the consummation of the transactions contemplated hereby.

17.4 Notwithstanding any other provision in this CONTRACT, all documents, records, reports and any other materials produced hereunder shall be subject to disclosure, inspection and audit, pursuant to the Palm Beach County Office of the Inspector General, Palm Beach County Code, Sections 2-421 - 2 440, as amended.

17.5 Upon completion and acceptance of the final work, the CONSULTANT shall furnish to the COUNTY the original drawings, field notes and all documents and materials prepared by and for the COUNTY under this CONTRACT. The CONSULTANT may keep a reproducible set of the original drawings and shall keep all other data collected during the provision of the services. The COUNTY may, at its expense, obtain copies of any data which the CONSULTANT has accumulated in the process of providing the services on this PROJECT tasks. Any reuse without written verification or adaptation by the CONSULTANT for the specific purpose intended will be at the COUNTY'S sole risk and without liability or legal exposure to the CONSULTANT.

17.6 All written and oral information not in the public domain or not previously known, and all information and data obtained, developed, or supplied by the COUNTY or at its expense will be kept confidential by the CONSULTANT and will not be disclosed to any other party, directly or indirectly, without the COUNTY'S prior written consent unless required by a lawful order. All drawings, maps, sketches, programs, data base, reports and other data developed or purchased under this CONTRACT at the COUNTY'S expense shall be, and remain, the COUNTY'S property, and may be reproduced and reused at the discretion of the COUNTY.

Street Lighting System Design and Related Construction Engineering Inspection (CEI) Annual Contract

17.7 The COUNTY and the CONSULTANT shall comply with the provisions of Chapter 119, Florida Statutes (Public Records Law).

17.8 All covenants, agreements, representations and warranties made herein, or otherwise made in writing by any party pursuant hereto, including but not limited to any representations made herein relating to disclosure or ownership of documents, shall survive the execution and delivery of this CONTRACT and the consummation of the transactions contemplated hereby.

17.9 - Reuse of Documents - Notwithstanding any breach of this CONTRACT by either party nor the status of payment to the CONSULTANT, nor the COUNTY'S exercise of its rights of termination, it is hereby agreed between the parties that copies of any and all property, work product, documentation, reports, computer systems and software, schedules, graphs, outlines, books, manuals, logs, files, deliverables, photographs, videos, tape recordings or data relating to this PROJECT which have been created as a part of the CONSULTANT'S services, or authorized by the COUNTY as a reimbursable expense, whether generated directly by the CONSULTANT, or by or in conjunction or consultation with any other party whether or not a party to this CONTRACT, whether or not in privity of contract with the COUNTY or CONSULTANT, and wherever located shall be the property of the COUNTY.

ARTICLE 18 - INDEPENDENT CONTRACTOR RELATIONSHIP

18.1 The CONSULTANT is, and shall be, in the performance of all work services and activities under this CONTRACT, an Independent Contractor, and not an employee, agent, or servant of the COUNTY. All persons engaged in any of the work or services performed pursuant to this CONTRACT shall at all times, and in all places, be subject to the CONSULTANT'S sole direction, supervision, and control. The CONSULTANT shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the CONSULTANT'S relationship and the relationship of its employees to the COUNTY shall be that of an Independent Contractor and not as employees or agents of the COUNTY.

18.2 The CONSULTANT does not have the power or authority to bind the COUNTY in any promise, agreement or representation.

ARTICLE 19 - CONTINGENT FEES - The CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT to solicit or secure this CONTRACT 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 the CONSULTANT, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this CONTRACT.

ARTICLE 20 - ACCESS AND AUDITS

20.1 The CONSULTANT shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the work for at least five (5) years after completion or termination of this CONTRACT. The COUNTY shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours, at the CONSULTANT'S place of business.

20.2 Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 - 2-440, as may be amended. The Inspector General's authority includes but is not limited to the power to review past, present and proposed County contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of the CONSULTANT, its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud.

20.3 Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be in violation of Palm Beach County Code, Section 2-421 - 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

ARTICLE 21 - NONDISCRIMINATION

21.1 The COUNTY is committed to assuring equal opportunity in the award of contracts and complies with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, the CONSULTANT warrants and represents that throughout the term of the CONTRACT, including any renewals thereof, if applicable, all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity or expression, or genetic information. Failure to meet this requirement shall be considered default of the CONTRACT.

21.2 As a condition of entering into this CONTRACT, the CONSULTANT represents and warrants that it will comply with the COUNTY'S Commercial Nondiscrimination Policy as described in Resolution 2017-1770, as amended. As part of such compliance, the CONSULTANT shall not discriminate on the basis of race, color, national origin, religion, ancestry, sex, age, marital status, familial status, sexual orientation, gender identity or expression, disability, or genetic information in the solicitation, selection, hiring or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall the CONSULTANT retaliate against any person for reporting instances of such discrimination. The CONSULTANT shall provide equal opportunity for subcontractors, vendors and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the County's relevant marketplace in Palm Beach County. The CONSULTANT understands and agrees that a material violation of this clause shall be considered a material breach of this CONTRACT and may result in termination of this

Street Lighting System Design and Related Construction Engineering Inspection (CEI) Annual Contract

CONTRACT, disqualification or debarment of the company from participating in County contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.

CONSULTANT shall include this language in its subcontracts.

ARTICLE 22 - AUTHORITY TO PRACTICE - The CONSULTANT hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business, and that it will at all times conduct its business activities in a reputable manner. Proof of such licenses and approvals shall be submitted to the COUNTY's representative upon request.

ARTICLE 23 - SEVERABILITY - If any term or provision of this CONTRACT, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this CONTRACT, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this CONTRACT shall be deemed valid and enforceable to the extent permitted by law.

ARTICLE 24 - PUBLIC ENTITY CRIMES - As provided in F.S. 287.132-133, by entering into this CONTRACT or performing any work in furtherance hereof, the CONSULTANT certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the 36 months immediately preceding the date hereof. This notice is required by F.S. 287.133(3)(a).

ARTICLE 25 - MODIFICATIONS OF WORK - The COUNTY reserves the right to make changes in Scope of Work, including alterations, reductions therein or additions thereto. Upon receipt by the CONSULTANT of the COUNTY'S notification of a contemplated change, the CONSULTANT shall, in writing: (1) provide a detailed estimate for the increase or decrease in cost due to the contemplated change, (2) notify the COUNTY of any estimated change in the completion date, and (3) advise the COUNTY if the contemplated change shall affect the CONSULTANT'S ability to meet the completion dates or schedules of this CONTRACT.

25.1 If the COUNTY so instructs in writing, the CONSULTANT shall suspend work on that portion of the Scope of Work affected by a contemplated change, pending the COUNTY'S decision to proceed with the change.

25.2 If the COUNTY elects to make the change, the COUNTY shall initiate a Contract Amendment and the CONSULTANT shall not commence work on any such change until such written amendment is signed by the CONSULTANT and approved and executed on behalf of Palm Beach County.

Street Lighting System Design and Related Construction Engineering Inspection (CEI) Annual Contract

ARTICLE 26 - NOTICE - All notices required in this CONTRACT shall be sent by certified mail, return receipt requested, hand delivery or other delivery service requiring signed acceptance.

26.1 If sent to the COUNTY, notices shall be addressed to:

Morton L. Rose, P.E.
Palm Beach County Engineering Department
2300 N. Jog Road Room 3W-33
West Palm Beach, FL 33411

With copy to:

Yelizaveta B. Herman
Palm Beach County Attorney's Office
301 North Olive Avenue
West Palm Beach, FL 33401

26.2 If sent to the CONSULTANT, notices shall be addressed to:

Adebayo Coker, P.E.
HBC Engineering Company
8935 NW 35th Lane, Suite 201
Doral, FL 33172

ARTICLE 27 - ENTIRETY OF CONTRACTUAL AGREEMENT - The COUNTY and the CONSULTANT agree that this CONTRACT sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this CONTRACT may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto in accordance with Article 25 of this CONTRACT.

ARTICLE 28 - CRIMINAL HISTORY RECORDS CHECK

28.1 The CONSULTANT, CONSULTANT'S employees, subcontractors of CONSULTANT and employees of subcontractors shall comply with Palm Beach County Code, Section 2-371 - 2-377, the Palm Beach County Criminal History Records Check Ordinance (Ordinance), for unescorted access to critical facilities (Critical Facilities) or criminal justice information facilities (CJI Facilities) as identified in Resolutions R2013-1470 and R2015-0572, as amended. The CONSULTANT is solely responsible for the financial, schedule, and/or staffing implications of this Ordinance. Further, the CONSULTANT acknowledges that its Contract price includes any and all direct or indirect costs associated with compliance with this Ordinance, except for the applicable FDLE/FBI fees that shall be paid by the COUNTY.

Street Lighting System Design and Related Construction Engineering Inspection (CEI) Annual Contract

28.2 This CONTRACT may include sites and/or buildings which have been designated as either critical facilities or criminal justice information facilities pursuant to the Ordinance and above referenced Resolutions, as amended. COUNTY staff representing the COUNTY department will contact the CONSULTANT(S) and provide specific instructions for meeting the requirements of this Ordinance. Individuals passing the background check will be issued a badge. The CONSULTANT shall make every effort to collect the badges of its employees and its subcontractors' employees upon conclusion of the CONTRACT and return them to the COUNTY. If the CONSULTANT or its subcontractor(s) terminates an employee who has been issued a badge, the CONSULTANT must notify the COUNTY within two (2) hours. At the time of termination, the CONSULTANT shall retrieve the badge and shall return it to the COUNTY in a timely manner.

28.3 The COUNTY reserves the right to suspend the CONSULTANT if the CONSULTANT 1) does not comply with the requirements of County Code Section 2-371 - 2-377, as amended; 2) does not contact the COUNTY regarding a terminated CONSULTANT employee or subcontractor employee within the stated time; or 3) fails to make a good faith effort in attempting to comply with the badge retrieval policy.

ARTICLE 29 - REGULATIONS; LICENSING REQUIREMENTS - The CONSULTANT shall comply with all laws, ordinances and regulations applicable to the services contemplated herein, to include those applicable to conflict of interest and collusion. CONSULTANT is presumed to be familiar with all federal, state and local laws, ordinances, codes and regulations that may in any way affect the services offered.

ARTICLE 30 - SCRUTINIZED COMPANIES

30.1 As provided in F.S. 287.135, by entering into this Contract or performing any work in furtherance hereof, the CONSULTANT certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the Scrutinized Companies that boycott Israel List, or is engaged in a boycott of Israel, pursuant to F.S. 215.4725. Pursuant to F.S. 287.135(3)(b), if CONSULTANT is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel, this Contract may be terminated at the option of the COUNTY.

30.2 When contract value is greater than \$1 million: As provided in F.S. 287.135, by entering into this CONTRACT or performing any work in furtherance hereof, the CONSULTANT certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the Scrutinized Companies With Activities in Sudan List or Scrutinized Companies With Activities in The Iran Petroleum Energy Sector List created pursuant to F.S. 215.473 or is engaged in business operations in Cuba or Syria.

30.3 If the County determines, using credible information available to the public, that a false certification has been submitted by CONSULTANT, this CONTRACT may be terminated and a civil penalty equal to the greater of \$2 million or twice the amount of this CONTRACT shall be

Street Lighting System Design and Related Construction Engineering Inspection (CEI) Annual Contract

imposed, pursuant to F.S. 287.135. Said certification must also be submitted at the time of Contract renewal, if applicable.

ARTICLE 31 - PUBLIC RECORDS

31.1 Notwithstanding anything contained herein, as provided under Section 119.0701, F.S., if the Consultant: (i) provides a service; and (ii) acts on behalf of the County as provided under Section 119.011(2) F.S., the Consultant shall comply with the requirements of Section 119.0701, Florida Statutes, as it may be amended from time to time. The Consultant is specifically required to:

- A. Keep and maintain public records required by the County to perform services as provided under this CONTRACT.
- B. Upon request from the County's Custodian of Public Records, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119 or as otherwise provided by law. The Consultant further agrees that all fees, charges and expenses shall be determined in accordance with Palm Beach County PPM CW-F-002, Fees Associated with Public Records Requests, as it may be amended or replaced from time to time.
- C. Ensure that public records that are exempt, or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the CONTRACT, if the Consultant does not transfer the records to the public agency.
- D. Upon completion of the CONTRACT the Consultant shall transfer, at no cost to the County, all public records in possession of the Consultant unless notified by County's representative/liaison, on behalf of the County's Custodian of Public Records, to keep and maintain public records required by the County to perform the service. If the Consultant transfers all public records to the County upon completion of the CONTRACT, the Consultant shall destroy any duplicate public records that are exempt, or confidential and exempt from public records disclosure requirements. If the Consultant keeps and maintains public records upon completion of the CONTRACT, the Consultant shall meet all applicable requirements for retaining public records. All records stored electronically by the Consultant must be provided to County, upon request of the County's Custodian of Public Records, in a format that is compatible with the information technology systems of County, at no cost to County.

31.2 Failure of the Consultant to comply with the requirements of this article shall be a material breach of this CONTRACT. County shall have the right to exercise any and all remedies available to it, including but not limited to, the right to terminate for cause. Consultant acknowledges that it has familiarized itself with the requirements of Chapter 119, F.S., and other requirements of state law applicable to public records not specifically set forth herein.

Street Lighting System Design and Related Construction Engineering Inspection (CEI) Annual Contract

31.3 IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, PLEASE CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT

**RECORDS REQUEST
PALM BEACH COUNTY PUBLIC AFFAIRS DEPARTMENT
301 N. OLIVE AVENUE
WEST PALM BEACH, FL 33401**

**BY E-MAIL AT RECORDSREQUEST@PBCGOV.ORG
OR BY TELEPHONE AT 561-355-6680**

ARTICLE 32 – COUNTERPARTS - This CONTRACT, including the exhibits referenced herein, may be executed in one or more counterparts, all of which shall constitute collectively but one and the same CONTRACT. The COUNTY may execute the CONTRACT through electronic or manual means. CONSULTANT shall execute by manual means only, unless the COUNTY provides otherwise.

ARTICLE 33 - E-VERIFY - EMPLOYMENT ELIGIBILITY - CONSULTANT warrants and represents that it is in compliance with section 448.095, Florida Statutes, as may be amended. No later than January 1, 2021, CONSULTANT shall: (1) register with and use the E-Verify System (E-Verify.gov), to electronically verify the employment eligibility of all newly hired workers; and (2) verify that all of the CONSULTANT's subconsultants performing the duties and obligations of this Contract are registered with and use the E-Verify System to electronically verify the employment eligibility of all newly hired workers.

CONSULTANT shall obtain from each of its subconsultants an affidavit stating that the subconsultant does not employ, contract with, or subcontract with an Unauthorized Alien, as that term is defined in section 448.095(1)(k), Florida Statutes, as may be amended. CONSULTANT shall maintain a copy of any such affidavit from a subconsultant for, at a minimum, the duration of the subcontract and any extension thereof. This provision shall not supersede any provision of this Contract which requires a longer retention period.

COUNTY shall terminate this Contract if it has a good faith belief that CONSULTANT has knowingly violated Section 448.09(1), Florida Statutes, as may be amended.

Street Lighting System Design and Related Construction Engineering Inspection (CEI) Annual Contract

If COUNTY has a good faith belief that CONSULTANT's subconsultant has knowingly violated Section 448.09(1), Florida Statutes, as may be amended, COUNTY shall notify CONSULTANT to terminate its contract with the subconsultant and CONSULTANT shall immediately terminate its contract with the subconsultant.

If COUNTY terminates this Contract pursuant to the above, CONSULTANT shall be barred from being awarded a future contract by COUNTY for a period of one (1) year from the date on which this Contract was terminated. In the event of such contract termination, CONSULTANT shall also be liable for any additional costs incurred by COUNTY as a result of the termination.

ARTICLE 34 – ADDITIONAL REPORTING - The COUNTY requires the CONSULTANT to track during the CONTRACT, and report at the end of the CONTRACT, the county of residence of the Consultant's employees and its subconsultants' employees. CONSULTANT agrees to prepare and provide the required report with its request for final payment.

Street Lighting System Design and Related Construction Engineering Inspection (CEI) Annual Contract

IN WITNESS WHEREOF, the Board of County Commissioners of Palm Beach County, Florida has made and executed this CONTRACT for **Annual Street Lighting System Design and Related Construction Engineering Inspection (CEI) Services** on behalf of the COUNTY and CONSULTANT has hereunto set its hand the day and year above written.

OWNER:


APPROVED AS TO TERMS
AND CONDITIONS

By: 

Morton L. Rose, P.E.
Director of Roadway Production

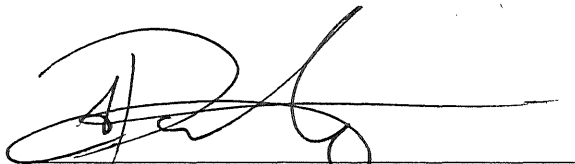
CONSULTANT:

HBC Engineering Company



Adebayo Coker, P.E., President/CEO

ATTEST WITNESS:

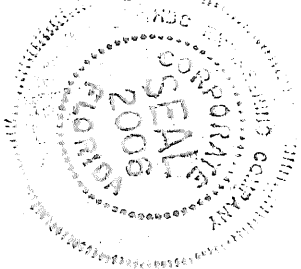


Signature

Anthony R. Prieto

Name (type or print)

(Corp. Seal)





Signature

Gabriel Pons

Name (type or print)

Street Lighting System Design and Related Construction Engineering Inspection (CEI) Annual Contract

{SIGNATURE PAGES CONTINUED}

ATTEST:

Joseph Abruzzo
Clerk of the Circuit Court & Comptroller

COUNTY:

Palm Beach County, a Political Subdivision of the State of Florida, by and through its Board of County Commissioners

By: _____
Deputy Clerk

By: _____
Dave Kerner, Mayor

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

(Seal)

By: _____
Yelizaveta B. Herman
Assistant County Attorney



EXHIBIT A

SCOPE OF SERVICES

PALM BEACH COUNTY STREET LIGHTING SYSTEM DESIGN AND RELATED INSPECTION (CEI) ANNUAL SERVICES CONTRACT

1.0 BACKGROUND:

The **CONSULTANT** has been retained by the **COUNTY** to provide the professional services as specified below.

2.0 PURPOSE:

The purpose of this contract is to provide Street Lighting System Design and related Construction Engineering Inspection (CEI) services on county projects as specifically authorized through task work order in writing.

3.0 SCOPE:

The **CONSULTANT** will provide the following services on an as needed basis:

- Street lighting system design
- Lighting analysis
- Cost estimating.
- Permitting
- Construction bid packages, specifications, reports, studies, etc.
- Procurement assistance;
 - 1) Pre-bid activities
 - 2) Responses to requests for information and clarifications
 - 3) Review construction bids
- Post design services;
 - 1) Pre-Construction Conference
 - 2) Field Reviews
 - 3) Request for Information
 - 4) Change Orders
 - 5) Shop Drawings and Samples
 - 6) Evaluate acceptability of substitute materials, if needed.
- Other additional or complementary support services as requested.



*Rates OK
HK*

Exhibit B

Date 10/19/2020

Contract Title: Street Lighting System Design and Related Inspection (CEI) Annual Services On A Work Task Order Basis
Consultant: HBC Engineering Company

Job Title	Raw Hourly Rate (\$/HR)	Loaded (\$/HR)
Project Manager	✓ \$76.00	✓ \$228.00
Senior Engineer	✓ \$60.00	✓ \$180.00
Designer	✓ \$35.00	✓ \$105.00
Engineer	✓ \$45.00	✓ \$135.00
Engineering Intern (EI)	✓ \$32.00	✓ \$96.00
Senior Inspector	✓ \$34.00	✓ \$102.00
Inspector	✓ \$27.00	✓ \$81.00
Multiplier	✓ 3.0	

**AFFIRMATIVE PROCUREMENT INITIATIVES
FOR PROFESSIONAL SERVICES CONTRACTS (API's)**

The API(s) approved for this project are shown below. Any proposal/response/bid that fails to comply with the API requirements after the period allowed for waiver requests has lapsed shall be deemed non-responsive. Capitalized terms are defined as set forth in the EBO Ordinance. The Office of Equal Business Opportunity website at

<http://discover.pbcgov.org/oebo/Pages/Compliance-Programs.aspx>

and incorporated herein by reference, includes all forms related to the EBO Program, including waiver forms and good faith documentation. Also, see the EBO Ordinance and Countywide PPM CW-O-043 for further information on APIs.

SBE Evaluation Preference for SBE Participation (Contracts \$500,000 or greater) (EBO Ordinance Section 2-80.27(3)(d) option 2)

15 Points (0 to 15%) total evaluation points shall be awarded based on the level of SBE dollar participation committed to on the prime respondent/bidder's team.

Evaluation Preference points shall be awarded on a sliding scale from zero up to 15 percent (15%) of the total available evaluation points for scoring of proposals to those firms responding to Professional Services Solicitations valued at \$500,000 or greater. The sliding scale shall be based upon the relative level of SBE dollar participation that has been committed to on the prime respondent/bidder's team (e.g., zero SBE participation on a prime respondent/bidder's team shall yield zero evaluation points, whereas the maximum SBE participation among all prime bidders, at the prime Contract and subcontract levels combined, shall yield award of fifteen Evaluation Preference points out of 100; and a prime respondent/bidder's team that achieves only half as many dollars in SBE participation as the firm with the greatest SBE dollar participation at the prime Contract and subcontract levels combined shall be awarded 7.5 evaluation points out of 100.

OEBO SCHEDULE 1

LIST OF PROPOSED CONTRACTOR/CONSULTANT AND SUBCONTRACTOR/SUBCONSULTANT PARTICIPATION

SOLICITATION/PROJECT/BID NAME: Annual Street Lighting System Design and Related Construction Engineering Inspection (CEI) Services On

NAME OF PRIME RESPONDENT/BIDDER: HBC Engineering Company

CONTACT PERSON: Adebayo Coker

SOLICITATION OPENING/SUBMITTAL DATE: September 30, 2020

SOLICITATION/PROJECT/BID No.: N/A

ADDRESS: 123 NE 13th Street, Suite 308, Boca Raton FL 33432

PHONE NO.: 305-232-7932/561-899-4438 E-MAIL: acoker@hbcengineeringco.com

DEPARTMENT: Engineering & Public Works Dept.

PLEASE LIST THE DOLLAR AMOUNT OR PERCENTAGE OF WORK TO BE COMPLETED BY THE PRIME CONTRACTOR/CONSULTANT ON THIS PROJECT. PLEASE ALSO LIST THE DOLLAR AMOUNT OR PERCENTAGE OF WORK TO BE COMPLETED BY ALL SUBCONTRACTORS/SUBCONSULTANTS ON THE PROJECT.

Name, Address and Phone Number	(Check all Applicable Categories)			DOLLAR AMOUNT OR PERCENTAGE OF WORK				
	Non-SBE	M/WBE Minority/Women Business	SBE Small Business	Black	Hispanic	Women	Caucasian	Other (Please Specify)
1. HBC Engineering Company 123 NW 13th Street, Suite 308, Boca Raton, FL 33432 305-232-7932 / 561-899-4438	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	100	_____	_____	_____	_____
2.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____	_____	_____	_____
3.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____	_____	_____	_____
4.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____	_____	_____	_____
5.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____	_____	_____	_____

(Please use additional sheets if necessary)

Total 100

Total Bid Price \$ N/A

Total SBE - M/WBE Participation 100

I hereby certify that the above information is accurate to the best of my knowledge: _____
Signature President
_____ _____
Title

- Note:
1. The amount listed on this form for a Subcontractor/subconsultant must be supported by price or percentage listed on the properly executed Schedule 2 or attached signed proposal.
 2. Firms may be certified by Palm Beach County as an SBE and/or an M/WBE. If firms are certified as both an SBE and/or M/WBE, please indicate the dollar amount under the appropriate category.
 3. Modification of this form is not permitted and will be rejected upon submittal.

Exhibit D
Page 1 of 2

OEBO LETTER OF INTENT – SCHEDULE 2

*Exhibit D
Page 2 of 2*

A completed Schedule 2 is a binding document between the Prime Contractor/consultant and any tier) and should be treated as such. The Schedule 2 shall contain bolded language indicating that by signing the Schedule 2, both parties recognize this Schedule as a binding document. All Subcontractors/subconsultants, including any tiered Subcontractors/subconsultants, must properly execute this document. Each properly executed Schedule 2 must be submitted with the bid/proposal.

SOLICITATION/PROJECT NUMBER: N/A

SOLICITATION/PROJECT NAME: Annual Street Lighting System Design and Related Construction Engineering Inspection (CEI) Services On A Work Task Order Basis

Prime Contractor: HBC Engineering Company Subcontractor: Same

(Check box(s) that apply)

SBE WBE MBE M/WBE Non-S/M/WBE Date of Palm Beach County Certification (if applicable): 04/25/2019

The undersigned affirms they are the following (select one from each column if applicable):

<u>Column 1</u>	<u>Column 2</u>	<u>Column 3</u>
<input checked="" type="checkbox"/> Male <input type="checkbox"/> Female	<input checked="" type="checkbox"/> African-American/Black <input type="checkbox"/> Asian American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Native American	<input type="checkbox"/> Caucasian American <input type="checkbox"/> Supplier

S/M/WBE PARTICIPATION – S/M/WBE Primes must document all work to be performed by their own work force on this form. Failure to submit a properly executed Schedule 2 for any S/M/WBE participation may result in that participation not being counted. Specify in detail, the scope of work to be performed or items supplied with the dollar amount and/or percentage for each work item. S/M/WBE credit will only be given for the areas in which the S/M/WBE is certified. A detailed proposal may be attached to a properly executed Schedule 2.

Line Item	Item Description	Unit Price	Quantity/ Units	Contingencies/ Allowances	Total Price/Percentage
9.05	Highway Lighting				100%

The undersigned Subcontractor/subconsultant is prepared to self-perform the above-described work in conjunction with the aforementioned project at the following total price or percentage: 100%

If the undersigned intends to subcontract any portion of this work to another Subcontractor/subconsultant, please list the business name and the amount below accompanied by a separate properly executed Schedule 2.

N/A Price or Percentage: N/A
 Name of 2nd/3rd tier Subcontractor/subconsultant

HBC Engineering Company
 Print Name of Prime
 By: [Signature]
 Authorized Signature
Adebayo Coker
 Print Name
President
 Title
 Date: 12-1-2020

HBC Engineering Company
 Print Name of Subcontractor/subconsultant
 By: [Signature]
 Authorized Signature
Adebayo Coker
 Print Name
President
 Title
 Date: 12-1-2020

Ebix Insurance Compliance

EBIX Search

Insured Name

IBC Engineering Company (D)

HBC Engineering Company

Active Records Only

- Insured Tasks Admin Tools**
- View
- Insured
 - Notes
 - History
 - Deficiencies
 - Coverages
 - Requirements
 - Contract Screen
- Add
- Edit
- Help
- Video Tutorials

Home Insured Tasks View Insured

Insured

Name:	HBC Engineering Company
Account Number:	DX00001215
Address:	
Status:	Currently in Compliance.

Insured

Account Information			
Account Number:	DX00001215		
Risk Type:	Standard - Professional Services		
Do Not Call:			Address Updated:
Address Information			
Mailing Address		Physical Address	
Insured:	HBC Engineering Company		
Address 1:			
Address 2:			
City:			
State:			
Zip:			
Country:			
Contract Information			
Contract Number:			
Contract Start Date:			Contract End Date:
Contract Effective Date:			Contract Expiration Date:
Description of Services:	Street Lighting System Design and Related Inspection	Safety Form II:	No
Contact Information			
Contact Name:	Elena Garcia	Misc:	
Phone Number:	3052327932	Alt Phone Number:	
Fax Number:			
E-Mail Address:	EGarcia@hbcengineeringco.com		
Approval Date:			
Rush:	No		
Contract on File:	No		
Certificate Received:	No		
Indemnification Agreement:	No		
Tax Id:			

This Account created by c28 on 10/21/2020.