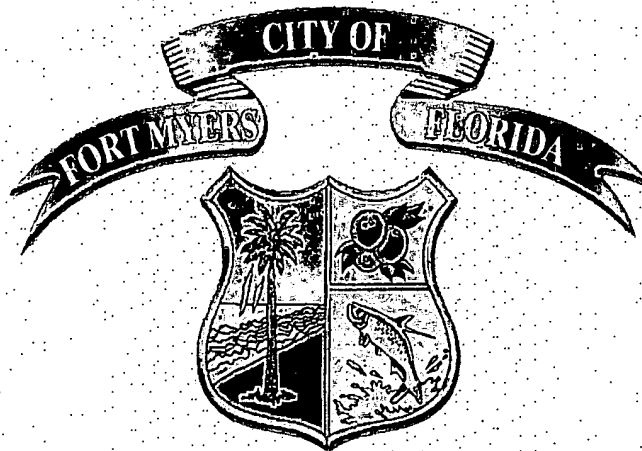


CITY OF FORT MYERS

PROFESSIONAL SERVICES AGREEMENT



City of Palms

THE CITY OF FORT MYERS

FORT MYERS, FLORIDA

and

QUATTRONE & ASSOCIATES, INC.

for the project known as

**Civil Engineering Services for the City of Fort Myers – Continuing Contract
RFQ #10-29-14-PW**

This PROFESSIONAL SERVICES AGREEMENT is made and entered into this 30th day of July 2015 between the City of Fort Myers, Florida, a municipal corporation in the STATE OF FLORIDA hereinafter referred to as the "CITY", and Quattrone & Associates, Inc. hereinafter referred to as the "CONSULTANT".

This Agreement will be in effect for a term of three (3) years effective July 20, 2015 to July 19, 2018. This agreement may also be extended for two (2) additional one (1) year periods upon mutual agreement of both parties.

The City of Fort Myers performance and obligation to pay under this contract is contingent upon an annual appropriation of funds by the City of Fort Myers.

WITNESSETH

WHEREAS, the CITY desires to obtain the professional services of said CONSULTANT to provide and perform PROFESSIONAL SERVICES as further described hereinafter concerning the Project to be referred to and identified as: Civil Engineering Services for the City of Fort Myers – Continuing Contract, RFQ #10-29-14-PW and

WHEREAS, the CONSULTANT hereby certifies that CONSULTANT has been granted and possesses valid, current licenses to do business in the State of Florida, in Lee County, and in the City of Fort Myers, Florida, issued by the respective State Boards and Government Agencies responsible for regulating and licensing the PROFESSIONAL SERVICES to be provided and performed by the CONSULTANT pursuant to this Agreement; and

WHEREAS, the CONSULTANT has reviewed the PROFESSIONAL SERVICES required pursuant to this Agreement and is qualified, willing and able to provide, perform or acquire all such services in accordance with the provisions, conditions and terms hereinafter set forth; and

WHEREAS, the selection and engagement of the CONSULTANT has been made by the CITY in accordance with the provisions of the Consultants' Competitive Negotiation Act, Chapter 287.055, Florida Statutes, and in accordance with the provisions of the City of Fort Myers Purchasing Manual, as approved and put into effect by the City of Fort Myers City Council, **AUGUST 17, 1998**, and as subsequently revised.

NOW, THEREFORE in consideration of the mutual covenants, terms and provisions contained herein, the parties hereto agree that with the mutual acceptance of this Agreement, as indicated hereinafter by the execution of this Agreement by both parties, that a Contract shall exist between both parties consisting of:

ARTICLE 1.00 - SCOPE OF PROFESSIONAL SERVICES

CONSULTANT, hereby agrees to provide and perform the PROFESSIONAL SERVICES required and necessary to complete the services and work as set forth in EXHIBIT "A" entitled "SCOPE OF PROFESSIONAL SERVICES", which EXHIBIT "A" is attached hereto and made a part of this Agreement.

ARTICLE 2.00 - DEFINITIONS

2.01 CITY

The term CITY shall refer to the City of Fort Myers, Florida, a municipal corporation in the State of Florida, and any official and/or employees thereof who shall be duly authorized to act on the CITY'S behalf relative to this Agreement.

2.02 CONSULTANT

The term CONSULTANT shall refer to the individual or firm offering PROFESSIONAL SERVICES, which by execution of this Agreement, shall be legally obligated, responsible, and liable for providing and performing any and all of the services, work and materials, including services and/or work of SUB-CONSULTANTS and SUB-CONTRACTORS, required under the covenants, terms and provisions contained in this Agreement, and any and all Amendments, SUPPLEMENTAL AGREEMENTS, or CHANGE ORDERS thereto.

2.03 PROFESSIONAL SERVICES

The term PROFESSIONAL SERVICES shall refer to all of the services, work, materials and all related professional, technical and administrative activities which are necessary to be provided and performed by the CONSULTANT and its employees, and any and all SUB-CONSULTANTS and SUB-CONTRACTORS the CONSULTANT may engage to provide, perform and complete the services required pursuant to the covenants, terms and provisions of this Agreement.

2.04 SUB-CONSULTANT

The term SUB-CONSULTANT shall refer to any individual or firm offering PROFESSIONAL SERVICES which is engaged by the CONSULTANT to assist the CONSULTANT in providing and performing the PROFESSIONAL SERVICES, work and materials for which the CONSULTANT is contractually obligated, responsible, and liable to provide and perform under this Agreement. The CITY shall not be a party to, responsible or liable for, or assume any obligation whatever for any Agreement entered into between the CONSULTANT and any SUB-CONSULTANT.

2.05 SUB-CONTRACTOR

The term SUB-CONTRACTOR shall refer to any individual, company or firm providing other than PROFESSIONAL SERVICES, which is engaged by the CONSULTANT to assist the CONSULTANT in providing and performing services, work and materials for which the CONSULTANT is contractually obligated, responsible, and liable to provide and perform under this Agreement. The CITY shall not be a party to, responsible or liable for, or assume any obligation whatever for any Agreement entered into between the CONSULTANT and any SUB-CONTRACTOR.

2.06 PROJECT

The term PROJECT shall refer to such facility, system, program or item as described in the summary statement set forth in the Preamble on Page One (1) of this Agreement.

2.07 BASIC SERVICES

The term BASIC SERVICES shall refer to the PROFESSIONAL SERVICES set forth and required pursuant to this Agreement, and as described in further detail in the attached EXHIBIT "A", entitled "SCOPE OF PROFESSIONAL SERVICES", which EXHIBIT "A" is attached hereto and made a part of this Agreement.

2.08 ADDITIONAL SERVICES

The term ADDITIONAL SERVICES shall refer to such PROFESSIONAL SERVICES as the CITY may request and authorize, in writing, the CONSULTANT to provide and perform relative to this Agreement, which are not included in the BASIC SERVICES. ADDITIONAL SERVICES shall be authorized by the execution of both parties to this Agreement of either a SUPPLEMENTAL AGREEMENT or a CHANGE ORDER AGREEMENT.

2.09 SUPPLEMENTAL AGREEMENT

The term SUPPLEMENTAL AGREEMENT shall refer to a written document executed by both parties to this Agreement setting forth and authorizing professional service tasks, which were not set forth in, and are supplemental to the Scope of Services contained in the initial PROFESSIONAL SERVICES AGREEMENT or other SUPPLEMENTAL AGREEMENTS issued thereto. The SUPPLEMENTAL AGREEMENT, which shall be executed on a City of Fort Myers standard form, shall set forth the authorized supplement(s) to the: Scope of the Professional Services tasks, work or materials to be performed or provided by the CONSULTANT; the compensation and method of payment; the schedule or time period for performance and completion; and the guidelines, criteria, or requirements pertaining thereto. The amount of the change in contract

compensation and time set forth in any and all SUPPLEMENTAL AGREEMENTS executed and issued under this Agreement shall be understood and agreed by both Parties to this Agreement to be fair, equitable, adequate and complete. The changed compensation shall be understood and agreed to be the total of all costs associated with or impacted by the SUPPLEMENTAL AGREEMENTS including, but not limited to any costs which may result from or be caused by the SUPPLEMENTAL AGREEMENTS, and shall be understood and agreed to include a fair, equitable and adequate adjustment to cover the CONSULTANT'S general administrative and overhead costs and profit.

2.10 CHANGE ORDER

The term CHANGE ORDER shall refer to a written document, CHANGE ORDER AGREEMENT, executed by both parties to this Agreement setting forth and authorizing changes to the agreed upon SCOPE OF PROFESSIONAL SERVICES and Tasks, Compensation and Method of Payment, Time and Schedule of Performance, or Project Guidelines and Criteria as such were set forth and agreed to in the initial AGREEMENT, SUPPLEMENTAL AGREEMENTS, or previous CHANGE ORDERS issued thereto. The CHANGE ORDER document, which shall be executed on a City of Fort Myers standard form, shall set forth the authorized changes to the: SCOPE OF PROFESSIONAL SERVICES, tasks, work or materials to be performed or provided by the CONSULTANT; the compensation and method of payment; the schedule or time period for performance and completion, and the guidelines, criteria and requirements pertaining thereto.

The amount of the change in contract compensation and time set forth in any and all CHANGE ORDERS executed and issued under this Agreement shall be understood and agreed by both Parties to this Agreement to be fair, equitable, adequate and complete. The changed compensation shall be understood and agreed to be the total of all costs associated with or impacted by the CHANGE ORDER including, but not limited to, any and all direct costs, indirect costs and associated costs which may result from or be caused by the CHANGE ORDER, and shall be understood and agreed to include a fair, equitable and adequate adjustment to cover the CONSULTANT'S general administrative and overhead costs and profit.

In the event the CITY decides to delete all, or portions, of the Scope of Services, Task(s), or Requirements set forth in the initial Agreement, SUPPLEMENTAL AGREEMENTS or previously authorized CHANGE ORDERS, the CITY may do so by the unilateral issuance of a written CHANGE ORDER to the CONSULTANT. Such a unilaterally issued CHANGE ORDER shall set forth, if appropriate, (1) an agreement by both the CITY and the CONSULTANT establishing changes in the amount of compensation to be paid the CONSULTANT as a result of the deletion or decrease in services required, or (2) in the absence of such an agreement concerning compensation, the unilaterally

issued CHANGE ORDER shall set forth the basis to be used in subsequently considering, and reaching agreement on change(s) in the compensation to be paid the CONSULTANT.

The failure on the part of the CONSULTANT to execute a CHANGE ORDER issued unilaterally by the CITY, to effect a deletion or decrease in the services required, shall have no effect on, or otherwise prevent the CITY from exercising its rights to direct the stated deletion or decrease in the services to be provided or performed by the CONSULTANT.

2.11 WORK ORDER

The term WORK ORDER shall refer to the written document execution by both parties to this Agreement, whereby the CITY provides authorization and notification to the CONSULTANT, and the CONSULTANT agrees, to proceed to provide or perform certain PROFESSIONAL SERVICES, tasks or work for which the Scope of Services and Compensation to be paid the CONSULTANT were set forth and agreed to in the initial AGREEMENT, or other SUPPLEMENTAL AGREEMENTS or CHANGE ORDERS thereto, such PROFESSIONAL SERVICES, tasks or work having previously been excluded and not included in written Notice(s) to Proceed issued by the CITY to the CONSULTANT. The WORK ORDER document, which shall be executed on a City of Fort Myers standard form, shall provide confirmation of the previously agreed to: SCOPE OF PROFESSIONAL SERVICES, tasks, work or materials to be performed or provided by the CONSULTANT; the compensation and method of payment; the schedule or time period for performance and completion; and the guidelines, criteria and requirements pertaining thereto.

2.12 CONTRACT ADMINISTRATOR

The term CONTRACT ADMINISTRATOR shall refer to the person employed by the City of Fort Myers to serve and act on the CITY'S behalf as the CITY'S CONTRACT ADMINISTRATOR. The CITY MANAGER shall act on behalf of the CITY to execute any and all SUPPLEMENTAL AGREEMENT(S) or CHANGE ORDER(S) approved by the CITY and issued to the CONSULTANT pursuant to this Agreement. The CONTRACT ADMINISTRATOR, within the authority conferred by the City of Fort Myers, acting as the CITY'S designated representative shall issue written notification to the CONSULTANT of any and all changes approved by the CITY in the CONSULTANT'S: (1) compensation (2) time and/or schedule of service delivery; (3) scope of services; and (4) any Amendment(s) or other change(s) relative to BASIC SERVICES and ADDITIONAL SERVICES pursuant to this Agreement, or SUPPLEMENTAL AGREEMENT (S), WORK ORDER(S), or CHANGE ORDER(S) pertaining thereto. The CONTRACT ADMINISTRATOR shall be responsible for acting on the CITY'S behalf to administer, coordinate, interpret and otherwise manage the contractual provisions and requirements set forth in this Agreement, or any

Amendment(s), CHANGE ORDER(S), SUPPLEMENTAL AGREEMENT (S) or WORK ORDER(S) issued thereunder.

2.13 PROJECT MANAGER

The term PROJECT MANAGER shall refer to the person employed or retained by the CITY and designated, to serve and act on the CITY'S behalf to provide direct contact and communication between the CITY and CONSULTANT with respect to providing information, assistance, guidance, coordination, review, approval and acceptance of the PROFESSIONAL SERVICES, work and materials to be provided and performed by the CONSULTANT pursuant to this Agreement and such written WORK ORDER(S), SUPPLEMENTAL AGREEMENT(S) and CHANGE ORDER(S) as are authorized. The PROJECT MANAGER is not authorized to, and shall not, issue any verbal, or written, request or instruction to the CONSULTANT that would have the effect, or be interpreted to have the effect, of modifying or changing in any way whatever the: (1) Scope of Services to be provided and performed by the CONSULTANT; (2) The time the CONSULTANT is obligated to commence and complete all such services; (3) The amount of compensation the CITY is obligated or committed to pay the CONSULTANT. The PROJECT MANAGER shall review and make appropriate recommendations on all requests submitted by the CONSULTANT for payment for services and work provided and performed, and reimbursable costs and expense, as provided for in this Agreement and approved WORK ORDER(S), SUPPLEMENTAL AGREEMENT (S), CHANGE ORDER(S), and Amendment(s) thereto.

2.14 LUMP SUM FEE(S)

Lump Sum Fee(s), hereinafter identified as L.S., are understood and agreed to include all direct and indirect labor costs, personnel related costs, overhead and administrative costs, costs of SUB-CONSULTANT(S) and/or SUB-CONTRACTOR(S), out-of-pocket expenses and costs, PROFESSIONAL SERVICE FEE(S) and any other costs or expenses which may pertain to the services and/or work to be performed, provided and/or furnished by the CONSULTANT as may be required and/or necessary to complete each and every task set forth in the SCOPE OF PROFESSIONAL SERVICES, EXHIBIT "A", or as may be set forth in subsequent WORK ORDERS, SUPPLEMENTAL AGREEMENTS, and/or CHANGE ORDERS agreed to in writing by both parties to this Agreement.

2.15 NOT-TO-EXCEED FEE(S)

When all, or any portion, of the CONSULTANT'S compensation to provide and perform the services and work necessary and required pursuant to the Tasks set forth in Agreement EXHIBIT "A", and any SUPPLEMENTAL AGREEMENTS, CHANGE ORDERS and WORK ORDERS authorized thereto, is established to

be made on a NOT-TO-EXCEED (N.T.E.) amount basis, it is mutually understood and agreed that such compensation for each completed Task shall be made on the following basis:

For the actual hours necessary, required and expended by the CONSULTANT'S professional and technical personnel, multiplied by the applicable hourly rates for each classification or position as set forth in Attachment No. 1 to Exhibit "B" to the above referenced Agreement and any SUPPLEMENTAL AGREEMENTS or CHANGE ORDERS authorized thereto; and

For the actual necessary, required and expended non-personnel reimbursable expenses and costs, multiplied by the applicable "Basis of Charges" for each item as set forth in Attachment No. 2 to Exhibit "B" to the above referenced Agreement and any SUPPLEMENTAL AGREEMENTS or CHANGE ORDERS authorized thereto; and

For the actual necessary, and required hours, and non-personnel expenses and costs, expended by SUB-CONSULTANTS and SUB-CONTRACTORS engaged by the CONSULTANT, multiplied by such hourly rates and unit costs as are agreed to by the CITY and the CONSULTANT, and as are set forth as part of the above referenced Agreement and any SUPPLEMENTAL AGREEMENTS or CHANGE ORDERS authorized thereto; and

With the understanding and agreement that the CITY shall pay the CONSULTANT for all such costs and expenses within the established NOT-TO-EXCEED amount for each Task or Sub-Task subject to the CONSULTANT presenting an itemized and detailed invoice with appropriate supporting documentation, including payrolls, attached thereto to show evidence satisfactory to the CITY covering all such costs and expenses; and

With the understanding and agreement that the CONSULTANT'S invoices, and all payments to be made for all NOT-TO-EXCEED amounts, shall be subject to the review (including independent audit, if desired), acceptance and approval of the CITY; and

With the understanding and agreement that when the CONSULTANT'S compensation is established on a NOT-TO-EXCEED basis for a specific Task(s) or Sub-Task(s), the total amount of compensation to be paid the CONSULTANT to cover all personnel costs, non-personnel reimbursable expenses and costs, and SUB-CONSULTANT and SUB-CONTRACTOR costs for any such specific Task(s) or Sub-Task(s) shall not exceed the amount of the total NOT-TO-EXCEED compensation established and agreed to for each specific Task(s) or Sub-Task(s). In the event the amount of compensation for any Task(s) or Sub-Task(s) to which the CONSULTANT is entitled on the NOT-TO-EXCEED basis set forth above is determined to be necessary, required and actually expended and is determined to be actually less than the NOT-TO-EXCEED amount

established for the specific Task or Sub-Task, it is understood and agreed that any unexpended amount under a specific Task or Sub-Task may not be used, applied, transferred, invoiced or paid for services or work provided or performed on any other Task(s) or Sub-Task(s), unless otherwise directed by the CITY'S PROJECT MANAGER, through an approved CHANGE ORDER.

ARTICLE 3.00 - OBLIGATIONS OF THE CONSULTANT

The obligations of the CONSULTANT with respect to all the BASIC SERVICES and ADDITIONAL SERVICES authorized pursuant to this Agreement shall include, but not be limited to, the following:

3.01 LICENSES

The CONSULTANT agrees to obtain and maintain throughout the period this Agreement is in effect, all such licenses as are required to do business in the State of Florida and in the City of Fort Myers, Florida, including, but not limited to, licenses required by the respective State Boards and other governmental agencies responsible for regulating and licensing the professional services provided and performed by the CONSULTANT pursuant to this Agreement.

3.02 PERSONNEL

(1) QUALIFIED PERSONNEL

The CONSULTANT agrees when the services to be provided and performed relate to a PROFESSIONAL SERVICE(S) which, under Florida Statutes, requires a license, certificate of authorization or other form of legal entitlement to practice such services, to employ and/or retain only qualified personnel to be in responsible charge of all BASIC SERVICES and ADDITIONAL SERVICES to be provided pursuant to this Agreement.

(2) CONSULTANT'S PROJECT MANAGER

The CONSULTANT agrees to employ and designate a qualified and, if required by law, a licensed professional to serve as the CONSULTANT'S PROJECT MANAGER. The CONSULTANT'S PROJECT MANAGER shall be authorized and responsible to act on behalf of the CONSULTANT with respect to directing, coordinating and administering all aspects of the services to be provided and performed under this Agreement and Amendment(s) thereto. The CONSULTANT'S PROJECT MANAGER shall have the full authority to bind and obligate the CONSULTANT on any matter arising under this Agreement and its Amendment(s) unless substitute arrangements have been furnished to the CITY in writing. The CONSULTANT agrees that the PROJECT MANAGER shall devote

whatever time is required to satisfactorily direct, supervise and manage the services provided and performed by the CONSULTANT throughout the entire period this Agreement is in effect. The person selected by the CONSULTANT to serve, as the CONSULTANT'S PROJECT MANAGER shall be subject to the prior approval and acceptance of the CITY.

(3) REMOVAL OF PERSONNEL

The CONSULTANT agrees, within thirty (30) calendar days of receipt of a written request from the CITY, to promptly remove and replace the CONSULTANT'S PROJECT MANAGER, or any other personnel employed or retained by the CONSULTANT, or personnel of the SUB-CONSULTANT(S) or SUB-CONTRACTOR(S) engaged by the CONSULTANT to provide and/or perform services and/or work pursuant to the requirements of this Agreement, who the CITY shall request, in writing, be removed, which request may be made by the CITY with or without cause. However, notwithstanding the above, nothing herein shall interfere with the CONSULTANT'S right to terminate its employees or employees' right to terminate their employment with the CONSULTANT.

3.03 TIMELY ACCOMPLISHMENT OF SERVICES

The timely performance and completion of the required services, work and materials is vitally important to the interests of the CITY. Time is of the essence for all of the duties and obligations contained in this Agreement and any Amendment(s) thereto. The CITY may suffer damages in the event that the CONSULTANT does not accomplish and complete the required services in a timely manner. The CONSULTANT agrees to employ, engage, retain and/or assign an adequate number of personnel throughout the period of this Agreement so that all BASIC SERVICES and ADDITIONAL SERVICES will be provided, performed and completed in a timely and diligent manner throughout. Failure to complete the work as contained in Exhibit "A" Scope of Services, Exhibit "C" Time and Schedule of Performance, shall be a consideration in determination of CONSULTANT responsibility in future request for contract services.

3.04 STANDARDS OF PROFESSIONAL SERVICES

The work and/or services to be provided and/or performed by the CONSULTANT and by any SUB-CONSULTANT(S) and/or SUB-CONTRACTOR(S) engaged by the CONSULTANT as set forth in the SCOPE OF PROFESSIONAL SERVICES, EXHIBIT "A", shall be done in accordance with the generally accepted standards of professional practice and in accordance with the applicable laws, rules, regulations, ordinances, codes, policies, standards or other guidelines issued by those governmental agencies which have jurisdiction over all or a portion of this project and which are in effect at the time the CITY approves this Agreement, or

which may subsequently be changed or revised. Any subsequent change or revision to such laws, rules, regulations, ordinances, codes, standards or other guidelines which requires the CONSULTANT to provide and/or perform work and/or services which are significantly different from that set forth in the SCOPE OF PROFESSIONAL SERVICES, EXHIBIT "A", shall serve as a basis for the CITY to consider the development and issuance of a CHANGE ORDER to provide for a change to, or ADDITIONAL SERVICES to the services set forth in the Agreement, and where applicable, additional compensation.

3.05 CORRECTION OF ERRORS, OMISSIONS OR OTHER DEFICIENCIES

(1) RESPONSIBILITY TO CORRECT

In accordance with the generally accepted standards of the engineering profession, the CONSULTANT agrees to be responsible for the professional quality, technical adequacy and accuracy, timely completion, and the coordination of all data, studies, surveys, designs, specifications, calculations, estimates, plans, drawings, construction documents, photographs, reports, memoranda, other documents and instruments, and other services, work and materials performed, provided, and/or furnished by the CONSULTANT or by any SUB-CONSULTANT(S) and/or SUB-CONTRACTOR(S) retained or engaged by the CONSULTANT pursuant to this Agreement. The CONSULTANT shall, without additional compensation, correct, revise, or have corrected or revised any errors, omissions and other deficiencies in such data, studies, surveys, designs, specifications, calculations, estimates, plans, drawings, construction documents and instruments, and other services, work and materials resulting from the negligent act, errors or omissions or intentional misconduct of the CONSULTANT or any SUB-CONSULTANT(S) or SUB-CONTRACTOR(S) engaged by the CONSULTANT.

(2) CITY'S APPROVAL SHALL NOT RELIEVE CONSULTANT OF RESPONSIBILITY

Neither review, approval, or acceptance by the CITY of data, studies, surveys, designs, specifications, calculations, estimates, plans, drawings, construction documents, photographs, reports, memoranda, other documents and instruments, and incidental PROFESSIONAL SERVICES, work and materials furnished hereunder by the CONSULTANT, or any SUB-CONSULTANT(S) or SUB-CONTRACTOR(S) engaged by the CONSULTANT, shall not in any way relieve CONSULTANT of responsibility for the adequacy, completeness and accuracy of its services, work and materials and the services, work and materials of any and all SUB-CONSULTANTS and/or SUB-CONTRACTORS engaged by the CONSULTANT to provide and perform services in connection with this Agreement. Neither the CITY'S review, approval or acceptance of, nor

payment for, any of the CONSULTANT'S services, work and materials shall be construed to operate as a waiver of any of the CITY'S rights under this Agreement, or any cause of action it may have arising out of the performance of this Agreement.

In the performance of the services to be provided in accordance with EXHIBIT "A" and as set forth in subsequent WORK ORDERS, SUPPLEMENTAL AGREEMENTS and CHANGE ORDERS, CONSULTANT may be required to rely upon data, studies, surveys, designs, specifications, calculations, estimates, reports, memoranda, other documents and instruments, and/or other services, work and materials performed and subsequently provided or furnished to the CONSULTANT by the CITY or others on behalf of the CITY. CONSULTANT shall rely and utilize this information without independent review or verification as to its accuracy and completeness unless otherwise provided for in EXHIBIT "A" and subsequent WORK ORDERS, SUPPLEMENTAL AGREEMENTS, and CHANGE ORDERS.

3.06 LIABILITY

(1) CONSULTANT TO HOLD CITY HARMLESS

The Engineer / Design Professional shall indemnify and hold harmless the agency, 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 the design professional and other persons employed or utilized by the design professional in the performance of the contract.

3.07 NOT TO DIVULGE CERTAIN INFORMATION

CONSULTANT agrees, during the term of this Agreement, not to divulge, furnish or make available to any third person, firm, or organization, without CITY'S prior written consent, or unless incident to the proper performance of CONSULTANT'S obligations hereunder, or in the courts of judicial or legislative proceedings where such information has been properly subpoenaed, any non-public information concerning the services to be rendered by CONSULTANT or any SUB-CONSULTANT(S) or SUB-CONTRACTOR(S) pursuant to this Agreement. CONSULTANT shall require all of its employees, SUB-CONSULTANT(S) and SUB-CONTRACTOR(S) to comply with the provisions of this paragraph.

3.08 CONSULTANT TO REPAIR PROPERTY DAMAGE CAUSED BY THE CONSULTANT

CONSULTANT agrees to promptly repair and/or replace, or cause to have repaired and/or replaced, at its sole cost and expense and in a manner acceptable to and approved by the CITY, any property damage arising out of, or caused by, the willful misconduct or negligent acts of the CONSULTANT, or of its SUB-CONSULTANTS and/or SUB-CONTRACTORS. This CONSULTANT'S obligation under this sub-article does not apply to property damage caused in whole or in part by any other CONSULTANT or CONTRACTOR engaged directly by the CITY.

The CITY reserves the right, should the CONSULTANT fail to make such repairs and/or replacement within a reasonable period of time, to cause such repairs and/or replacement to be made by others and for all costs and expenses associated with having such repairs and/or replacement done to be paid for by the CONSULTANT, or by the CONSULTANT reimbursing the CITY for all such costs and expenses.

3.09 RESPONSIBILITY FOR ESTIMATES

- (1) In the event the services required pursuant to this Agreement include the CONSULTANT preparing and submitting to the CITY, cost estimates, the CONSULTANT, by exercise of his or her experience, effort, knowledge and judgment, shall develop such cost estimates as are set forth herein, or as may be required under the Agreement and shall be held accountable, responsible and liable for the accuracy, completeness, and correctness of any and all such cost estimates. Because CONSULTANT has no control over the cost of labor and materials or over competitive bidding or market conditions, CONSULTANT cannot and does not guarantee that bids or negotiated prices will not vary from any opinion of probable costs prepared by CONSULTANT. For purposes of the Liability Provisions of this Article only, the CONSULTANT'S estimate(s) shall be considered valid and effective for a period of six (6) months from the date of the CITY'S acceptance of the estimate(s).
- (1) The cost estimates of CONSULTANT or SUB-CONSULTANT(S) engaged by CONSULTANT, for the appraisal or valuation of property or easements, or the estimate of damages or costs associated with the acquisition of property or easements are exempted from the provisions of Article 3.09.

(2) Estimates for Construction Projects

(A) CONSTRUCTION COST ESTIMATE

A construction cost estimate for purposes of this Agreement is an estimate prepared on the basis of well defined engineering/architectural data and on detailed information set forth in specifications, designs or drawings which are to be used as a basis for obtaining bids or price proposals for constructing the project. This type of estimate is considered to be accurate within plus or minus ten percent of the cost of the construction of the project. The accuracy and reliability of a CONSTRUCTION COST ESTIMATE is vital to the CITY'S interests because it may be used for such purposes as, but not limited to the following; budgeting, obtaining, allocating or obligating funds for the project; evaluating and determining the reasonableness and acceptableness of bids or price proposals for construction projects; or establishing the assessment amounts for Special Assessment Districts.

Notwithstanding anything above to the contrary, in that event that all responsive and responsible bids exceed the final opinions of probable construction costs prepared by CONSULTANT by more than ten percent (10%), the CONSULTANT and CITY shall: (1) agree in writing to increase such opinion of probable costs; or (2) authorize negotiating or re-bidding of such work within a reasonable time; or (3) cooperatively review the overall scope of the project, the established guidelines and criteria of the project, the final plans and specifications of the project, and other construction documents and identify and mutually agree in writing to modify applicable parts of said scope, guidelines and criteria, plans and specifications, or other construction documents accordingly to effect the CITY obtaining a lowest priced bid which does not exceed the above mentioned CONSULTANT'S final opinion of probable construction costs by more than ten percent (10%). If required, compensation for the CONSULTANT'S services specific to action (1), (2), or (3) above shall be included in the compensation amount agreed upon for the final design of the Project. The obligation to provide such services, if required, will be the limit of the CONSULTANT'S responsibility in this regard and CONSULTANT shall be entitled to payment for all other services in accordance with this Agreement and will not otherwise be liable for damages attributable to the lowest proposal or bid exceeding the final opinion of probable construction costs. Any such modifications made by the CONSULTANT shall not conflict with the functional or operational requirements established by the CITY for the project and set forth

in the Agreement or SUPPLEMENTAL AGREEMENT(S) or CHANGE ORDER(S) issued thereto, nor shall any such modifications conflict with established rules, regulations, requirements or professional standards pertaining to the design, specifications or drawings prepared by the CONSULTANT, nor shall such modifications adversely affect the safe use or operation of the constructed project.

For determination of compliance with the accuracy requirement established for the CONSTRUCTION COST ESTIMATE prepared by the CONSULTANT, the amount of the CONSTRUCTION COST ESTIMATE submitted by the CONSULTANT shall be adjusted from the date the CONSTRUCTION COST ESTIMATE was received by the CITY until the date bids or price proposals are received by the CITY, by applying the percent change in the "20 Cities Cost Index" as published in the ENR (formerly ENGINEERING NEWS-RECORD), a McGraw-Hill, Inc. publication.

3.10 PERMITS

The CONSULTANT will be responsible for preparing all required applications and other supportive information necessary to assist the CITY in submitting for and obtaining all reviews, approvals and permits, with respect to the CONSULTANT'S design, drawings and specifications required by any governmental body having authority over the project. Any fees required for such reviews, approvals or permits will be covered by a check issued by the CITY and made payable to the respective governmental body upon the CONSULTANT furnishing the CITY satisfactory documentation of such fees. The CONSULTANT will be similarly responsible for preparing all required applications and other supportive information necessary to assist the CITY in submitting for and obtaining any renewals and/or extensions of reviews, approvals or permits that may be required while this Agreement is in effect. The CITY shall, at the CONSULTANT'S request, assist in obtaining required signatures and provide the CONSULTANT with all information known to be available to the CITY so as to assist the CONSULTANT in the preparation and the CITY'S subsequent submittal of any original, renewal or extension of required reviews, approvals or permits.

3.11 ADDITIONAL SERVICES

Should the CITY request the CONSULTANT to provide and perform PROFESSIONAL SERVICES for this project, which are not set forth in EXHIBIT "A", the CONSULTANT agrees to provide and perform such ADDITIONAL SERVICES as may be agreed to in writing by both parties to this Agreement.

Such ADDITIONAL SERVICES shall constitute a continuation of the professional SERVICES covered under this Agreement and shall be provided and performed in accordance with the covenants, terms, and provisions set forth in this Agreement and Amendment(s) thereto.

ADDITIONAL SERVICES shall be administered and authorized as "SUPPLEMENTAL AGREEMENTS" or "CHANGE ORDERS" under the Agreement. The CONSULTANT shall not provide or perform, nor shall the CITY incur or accept any obligation to compensate the CONSULTANT for any ADDITIONAL SERVICES unless, and until, a written "SUPPLEMENTAL AGREEMENT" or "CHANGE ORDER" shall have been agreed to and executed by both parties.

Each such "SUPPLEMENTAL AGREEMENT" or "CHANGE ORDER" shall set forth a comprehensive, detailed description of: (1) the Scope of the ADDITIONAL SERVICES requested; (2) the basis of compensation; and (3) the period of time and/or schedule for performing and completing said ADDITIONAL SERVICES.

3.12 TRUTH-IN-NEGOTIATIONS CERTIFICATE

The CITY may request the CONSULTANT to execute a Truth-in-Negotiations Certificate ("Certificate"), in a form attached as EXHIBIT "F". The Certificate shall state that wage rates and other factual unit costs supporting the compensation are accurate, complete and current at the time this Agreement is executed. The original contract price and any additions thereto shall be adjusted to exclude any significant sums by which the CITY determines the contract price was increased due to inaccurate, incomplete or non-current wage rates of other factual unit costs.

3.13 COMPLETION OF TASKS

Unless otherwise set forth in the Agreement, the CONSULTANT shall be responsible for providing and performing whatever services, work, equipment, material, personnel, supplies, facilities, transportation and administrative support that are necessary and required to complete all of the tasks set forth in Agreement EXHIBIT "A" entitled "SCOPE OF PROFESSIONAL SERVICES" and SUPPLEMENTAL AGREEMENTS, CHANGE ORDERS and WORK ORDERS authorized. The compensation to be paid the CONSULTANT, as set forth in Agreement EXHIBIT "B" entitled "COMPENSATION AND METHOD OF PAYMENT" and SUPPLEMENTAL AGREEMENTS, CHANGE ORDERS and WORK ORDERS authorized thereto, shall be understood and agreed to adequately and completely compensate the CONSULTANT for providing or performing whatever services, work, equipment, material, personnel, supplies, facilities, transportation and administrative support that are necessary and required to complete the tasks set forth in Agreement EXHIBIT "A" and

SUPPLEMENTAL AGREEMENTS, CHANGE ORDERS and WORK ORDERS authorized thereto as stated above."

3.14 AFFIRMATIVE ACTION BY CONSULTANT WHEN ENGAGING SUB-CONSULTANTS

City of Fort Myers City Code Section 38-125 (Ordinance No. 3126) sets a goal of FIFTEEN (15%) percent of the monies actually spent for contractual services for the purpose of entering into contracts with certified Minority Business Enterprises. Accordingly, the CONSULTANT is encouraged, when selecting or engaging the services of sub-consultants or sub-contractors pursuant to this Agreement, to spend FIFTEEN (15%) percent of the amount of compensation established in this Agreement and in subsequent SUPPLEMENTAL AGREEMENTS, CHANGE ORDERS and WORK ORDERS authorized thereto for the engagement of the services of certified Minority Business Enterprise SUB-CONSULTANTS or SUB-CONTRACTORS.

In furtherance of this statutory goal, the CITY expects the CONSULTANT to take affirmative action towards achieving this goal. "Affirmative Action", as used herein, shall constitute a good faith effort by the CONSULTANT to achieve the stated goal of engaging certified Minority Business Enterprise SUB-CONSULTANTS or SUB-CONTRACTORS to provide or perform services and/or work pursuant to the SCOPE OF SERVICES required under this Agreement. Efforts taken by the CONSULTANT to assist the CITY in meeting this statutory goal must be documented in detail, records of SUB-CONSULTANTS or SUB-CONTRACTORS contacted maintained, including negotiation efforts, and written Agreements maintained for services or work awarded to SUB-CONSULTANTS or SUB-CONTRACTORS.

The CONSULTANT, upon receipt of a written request by the CITY, shall within ten (10) calendar days thereafter, submit to the CITY copies of records and supporting documentation to show evidence of its affirmative action efforts to achieve the above stated goal.

The CONSULTANT is encouraged to contact the City of Fort Myers Purchasing and Contracts Administration Division, or the Minority Business Enterprise Program Coordinator, for information and assistance regarding the CITY'S Minority Business Enterprise certification program and listing of certified Minority Business Enterprises.

3.15 ALL DRAWINGS

All drawings for the CITY shall be submitted in both hard copy and electronic form in a format that is completely compatible to the CITY's software.

3.16 ALL REPORTS

All reports and written documents for the City will be submitted in both hard copy and electronic form in a format that is completely compatible to the City's software. All photos, exhibits, graphs, tables, etc. contained within any report or document will be provided separately in a file format compatible to the City's software.

3.17 CHANGE IN STATUS

If a firm changes legal business structure through a merger, acquisition, or sale; has a legal name change, a change in principal location of conducting business; a change in status with the Secretary of State filing, a change in officers, or any other change that affects the structure of the business; a change in the level of service being offered, the nature of the products or service offered; or any deviation from what was presented by the firm to the City when being considered for this contract; the firm will immediately notify the City of said changes in writing to the office of The Purchasing and Contracts Administration Division, 2600 Dr. Martin Luther King, Jr. Blvd., City of Fort Myers, Florida 33916; ATTN: Purchasing and Contracts Administration Manager.

ARTICLE 4.00 - OBLIGATIONS OF THE CITY

4.01 DESIGNATION OF PROJECT MANAGER

The CITY agrees, after the execution of this Agreement, to promptly advise the CONSULTANT, in writing, of the person designated to serve and act as the CITY'S PROJECT MANAGER pursuant to the provisions of Article 2.13 of this Agreement. Such notification shall be provided to the CONSULTANT by the CITY'S CONTRACT ADMINISTRATOR.

4.02 AVAILABILITY OF CITY INFORMATION

(1) PROJECT GUIDELINES AND CRITERIA

Guidelines to the CONSULTANT regarding requirements the CITY has established, or suggests relative to the Project including, but not limited to, such items as: goals, objectives, constraints, and any special financial, budgeting, space, site, operational, equipment, technical, construction, time and scheduling criteria are set forth in EXHIBIT "E", entitled "PROJECT GUIDELINES AND CRITERIA", which EXHIBIT "E" is attached hereto and made a part of this Agreement.

(2) CITY TO PROVIDE PERTINENT REFERENCE MATERIAL

At the CONSULTANT'S request, the CITY agrees to provide to the CONSULTANT, at no cost to the CONSULTANT, all pertinent information known to be available to the CITY to assist the CONSULTANT in providing and performing the required professional services. Such information may include, but not be limited to: previous reports; plans, drawings and specifications; maps; property, boundary, easement, right-of-way, topographic, reference monuments, control points, plats and related survey data; data prepared or services furnished by others to the CITY such as sub-surface investigations, laboratory tests, inspections of natural and man-made materials, property appraisals, studies, designs and reports.

4.03 AVAILABILITY OF CITY'S DESIGNATED REPRESENTATIVES

The CITY agrees that the CONTRACT ADMINISTRATOR and the PROJECT MANAGER shall be available within a reasonable period of time, with reasonable prior notice given by the CONSULTANT, to meet and/or consult with the CONSULTANT on matters pertaining to the services to be provided and performed by the CONSULTANT. The CITY further agrees to respond within a reasonable period of time to written requests submitted by the CONSULTANT.

4.04 ACCESS TO CITY PROPERTY

The CITY agrees, with reasonable prior written notice given by the CONSULTANT, to provide the CONSULTANT with access within a reasonable period of time to CITY property, facilities, buildings and structures, to enable the CONSULTANT to provide and perform the required PROFESSIONAL SERVICES and work pursuant to this Agreement. Such rights of access shall not be exercised in such a manner, or to such an extent, as to impede or interfere with CITY operations, or the operations carried on by others under a lease, or other contractual arrangement with the CITY, or in such a manner as to adversely affect the public health and safety. Such access may, or may not be, within the CONSULTANT'S normal office and/or field workdays and/or work hours.

4.05 PLAN REVIEWS

Plan reviews by City staff is only for conformance with the design concept of the project and for compliance with the information given in the contract documents, and shall not extend to means, methods, techniques, sequences or procedures of construction or to safety precautions or programs incident thereto. The review does not relieve the CONSULTANT from responsibility for errors or omissions or

from responsibility for having the design comply with the provisions of all codes having jurisdiction.

ARTICLE 5.00 - COMPENSATION AND METHOD OF PAYMENT

5.01 BASIC SERVICES

The CITY shall pay the CONSULTANT for all requested and authorized BASIC SERVICES rendered hereunder by the CONSULTANT and completed in accordance with the requirements, provisions, and/or terms of this Agreement or its Amendment(s) and accepted by the CITY in accordance with the provisions for compensation and payment of said BASIC SERVICES set forth and prescribed in EXHIBIT "B", entitled "COMPENSATION AND METHOD OF PAYMENT", which EXHIBIT "B" is attached hereto and made a part of this Agreement, or on the basis of such changes to the established compensation as may be mutually agreed to by both parties to this Agreement as evidenced by a written SUPPLEMENTAL AGREEMENT or CHANGE ORDER executed by both parties.

5.02 ADDITIONAL SERVICES

The CITY shall pay the CONSULTANT for all such ADDITIONAL SERVICES as have been requested and authorized by the CITY and agreed to, in writing, by both parties to this Agreement and which have been rendered as ADDITIONAL SERVICES by the CONSULTANT and completed in accordance with the requirements, provisions, and/or terms of this Agreement or its Amendments, and accepted by the CITY in accordance with the provisions for compensation and payment of said ADDITIONAL SERVICES, as set forth and prescribed in EXHIBIT "B", entitled "COMPENSATION AND METHOD OF PAYMENT", which EXHIBIT "B" is attached hereto and made a part of this Agreement, or on the basis of such changes to the established compensation as may be mutually agreed to by both parties to this Agreement as evidenced by a written SUPPLEMENTAL AGREEMENT or CHANGE ORDER executed by both parties.

5.03 METHOD OF PAYMENT

(1) MONTHLY STATEMENTS

The CONSULTANT shall be entitled to submit not more than one invoice statement to the CITY each calendar month covering services rendered during the preceding calendar month.

The CONSULTANT'S invoice statement(s) shall be itemized to correspond to the basis of compensation as set forth in the Agreement, or SUPPLEMENTAL AGREEMENT(S), CHANGE ORDER(S), and/or WORK ORDER(S) thereunder.

The CONSULTANT'S invoice statements shall contain a breakdown of charges, description of service(s) and work provided and/or performed, and where appropriate, supportive documentation of charges consistent with the basis of compensation set forth in the Agreement, or in SUPPLEMENTAL AGREEMENT(S), CHANGE ORDER(S), and/or WORK ORDER(S) thereunder.

(2) PAYMENT FOR SERVICES PERFORMED

The CITY shall pay the CONSULTANT for services performed using either of the following methods, or using a combination thereof:

- (A) The CITY shall pay the CONSULTANT, on the basis of services completed, for tasks set forth in EXHIBITS "A" and "B", as evidenced by work products such as reports, drawings, specifications, etc., submitted by the CONSULTANT and accepted by the CITY. No payments shall be made for CONSULTANT'S Work-in-Progress until service items, for which payment amounts have been established and set forth in this Agreement, have been completed by the CONSULTANT and accepted by the CITY. A minimum of thirty-three and one-third (33 1/3%) percent shall be completed prior to first payment being made, provided services performed are on schedule. Whenever an invoice statement covers services for which no work product is required to be furnished by the CONSULTANT to the CITY, the CITY reserves the right to retain ten percent (10%) of the amount invoiced until such service requirements are fully completed.
- (A) The CITY shall pay the CONSULTANT for services performed for tasks set forth in EXHIBITS "A" and "B" on the basis of an invoice statement covering CONSULTANT'S Work-in-Progress expressed as a percentage of the total cost of the service and/or work required for each task invoiced in this manner. A copy of all material shall be submitted with pay estimate. All such Work-in-Progress percentages are subject to the review and approval of the CITY. The decision of the CITY shall be final as to the Work-in-Progress percentages paid. Payment by the CITY for tasks on a Work-in-Progress percentage basis shall not be deemed or interpreted in any way to constitute an approval or acceptance by the CITY of any such service or Work-in-Progress. The CONSULTANT shall be responsible for correcting, redoing, modifying or otherwise completing the services and work required for each task before receiving final, full payment whether or not previous Work-in-Progress payments have been made. All tasks to be paid for on a Work-in-Progress percentage basis shall be agreed to by both

parties to the Agreement and to be paid in this manner shall be identified in EXHIBIT "B" with the notation (WIPP). Only tasks so identified will be paid on a Work-in-Progress percentage basis. The CITY reserves the right to retain ten percent (10%) of the amount invoiced until such service requirements are fully completed.

(3) PAYMENT SCHEDULE

The CITY shall issue payment to the CONSULTANT within thirty (30) calendar days after receipt of an invoice statement from the CONSULTANT in an acceptable form and containing the requested breakdown and detailed description and documentation of charges, including percentage of completion per item. Should the CITY object or take exception to the amount of any CONSULTANT'S invoice statement, the CITY shall notify the CONSULTANT of such objection or exception within twenty (20) business days after the date on which the payment request or invoice is stamped as received. If such objection or exception remains unresolved at the end of said ten (10) calendar day period, the CITY shall withhold the disputed amount and make payment to the CONSULTANT of the amount not in dispute. Payment of any disputed amount, or adjustments thereto, shall be made within thirty (30) calendar days of the date such disputed amount is resolved by mutual agreement of the parties to this Agreement.

(4) ANNUAL APPROPRIATIONS

The CITY's performance and obligation to pay under this contract is contingent upon annual appropriation of funds.

5.04 PAYMENT WHEN SERVICES ARE TERMINATED AT THE CONVENIENCE OF THE CITY

In the event of termination of this Agreement at the convenience of the CITY, not at the fault of the CONSULTANT, the CITY shall compensate the CONSULTANT only for: (1) all services performed prior to the effective date of termination, including the overhead and profit allocable to the services performed; (2) reimbursable expenses then due; and (3) reasonable expenses incurred by the CONSULTANT in affecting the termination of services and work, and incurred by the submittal to the CITY of project drawings, plans, data, and other project documents.

5.05 PAYMENT WHEN SERVICES ARE SUSPENDED

In the event the CITY suspends the CONSULTANT'S services and work on all or part of the services required to be provided and performed by the CONSULTANT pursuant to this Agreement, the CITY shall compensate the CONSULTANT only

for the services performed prior to the effective date of suspension, including the overhead and profit allocable to the services performed, and reimbursable expenses then due, and any reasonable expenses incurred or associated with, or as a result of such suspension.

5.06 NON-ENTITLEMENT TO ANTICIPATED FEE IN THE EVENT OF SERVICE TERMINATION, SUSPENSION, ELIMINATION, CANCELLATION AND/OR DECREASE

In the event the services required pursuant to this Agreement are terminated, eliminated, cancelled, or decreased due to: (1) termination; (2) suspension in whole or in part; and (3) and/or are modified by the subsequent issuance of Amendment(s), SUPPLEMENTAL AGREEMENT(S), and/or CHANGE ORDER(S), other than receiving the compensation set forth in Sub-Articles 5.04 and 5.05, the CONSULTANT shall not be entitled to receive compensation for anticipated professional fees, profit, general and administrative overhead expenses, or for any other anticipated income or expense which may be associated with the services which are terminated, suspended, eliminated, cancelled or decreased.

ARTICLE 6.00 - TIME AND SCHEDULE OF PERFORMANCE

6.01 NOTICE TO PROCEED

Following the execution of this Agreement by both parties, and after the CONSULTANT has complied with the insurance requirements set forth hereinafter, the CITY shall issue the CONSULTANT a WRITTEN NOTICE TO PROCEED. Following the issuance of such NOTICE TO PROCEED, the CONSULTANT shall be authorized to commence work, and the CONSULTANT thereafter shall commence work promptly and shall carry on all such services and work as may be required in a timely and diligent manner to completion.

6.02 TIME OF PERFORMANCE

The CONSULTANT agrees to complete the services required pursuant to this Agreement within the time period(s) for completion of the various phases and/or tasks of the project services set forth and described in this Agreement, as set forth in EXHIBIT "C", entitled "SCHEDULE OF PERFORMANCE", which EXHIBIT "C" is attached hereto and made a part of this Agreement.

Should the CONSULTANT be obstructed or delayed in the execution or completion of its obligations under this Agreement and its Amendment(s), as a result of causes beyond the control of the CONSULTANT, or its SUB-CONSULTANT(S) and/or SUBCONTRACTOR(S), and not due to their fault or neglect, the CONSULTANT shall notify the CITY, in writing, within five (5) calendar days after the commencement of such delay, stating the cause(s)

thereof and requesting an extension of the CONSULTANT'S time of performance. Upon receipt of the CONSULTANT'S request for an extension of time, the CITY will begin determination with the CONSULTANT to length of extension and legitimacy of cause.

6.03 CONSULTANT WORK SCHEDULE

The CONSULTANT shall be required, as a condition of this Agreement, to prepare and submit to the CITY, on a monthly basis, commencing with the issuance of the NOTICE TO PROCEED, a CONSULTANT'S WORK SCHEDULE. Said SCHEDULE shall be updated at each pay request. The WORK SCHEDULE shall set forth the time and manpower scheduled for all of the various phases and/or tasks required to provide, perform and complete all of the services and work required for completion of the various phases, and/or tasks of the project services set forth and described in this Agreement, as set forth in EXHIBIT "C", pursuant to this Agreement in such a manner that the CONSULTANT'S planned and actual work progress can be readily determined. The CONSULTANT'S WORK SCHEDULE of planned and actual work progress shall be updated and submitted by the CONSULTANT to the CITY on a monthly basis.

6.04 FAILURE TO PERFORM IN A TIMELY MANNER

Notwithstanding anything to the contrary in Paragraph 6.02 above, should the CONSULTANT fail to commence, provide, perform and/or complete any of the services and work required pursuant to this Agreement in a timely and diligent manner, the CITY may consider such failure as justifiable cause to terminate this Agreement. As an alternative to termination, the CITY at its option, may, upon written notice to the CONSULTANT, withhold any or all payments due and owing to the CONSULTANT, not to exceed the amount of the compensation for the work in dispute, until such time as the CONSULTANT resumes performance of his obligations in such a manner as to get back on schedule in accordance with the time and schedule of performance requirements set forth in the Agreement, or any WORK ORDER(S), SUPPLEMENTAL AGREEMENT(S), CHANGE ORDER(S) or Amendment(s) issued thereto. CONSULTANT shall not be responsible for failure to perform in a timely manner due to causes outside CONSULTANT'S reasonable control.

6.05 EFFECTIVE DATE AND TERM OF CONTRACT

This Agreement will be in effect for a term of three (3) years beginning with the starting date indicated on Page One (1) of the agreement. This agreement may also be extended for two (2) additional one (1) year periods upon mutual agreement of both parties.

The City of Ft. Myers performance and obligation to pay under this contract is contingent upon an annual appropriation of funds by the City of Fort Myers.

ARTICLE 7.00 - SECURING AGREEMENT

The CONSULTANT warrants that the CONSULTANT has not employed or retained any company or person other than a bona fide, regular, full time employee working for the CONSULTANT to solicit or secure this Agreement and that the CONSULTANT has not paid or agreed to pay any person, company, corporation 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 Agreement.

ARTICLE 8.00 - CONFLICT OF INTEREST

The CONSULTANT represents that to the best of its knowledge and belief, 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. The CONSULTANT further agrees that no person having any such interest shall be employed or engaged by the CONSULTANT for said performance.

If CONSULTANT, for itself and on behalf of its SUB-CONSULTANTS, is about to engage in representing another client, which it in good faith believes could result in a conflict of interest with the work being performed by CONSULTANT or such SUB-CONSULTANT under this Agreement, then it will promptly bring such potential conflict of interest to the CITY'S attention, in writing. The CITY will then advise the CONSULTANT, in writing, within ten (10) calendar days as to the period of time required by the CITY to determine if such a conflict of interest exists. If the CITY determines that there is a conflict of interest, CONSULTANT or such sub-consultant shall decline the representation upon written notice by the CITY.

If the CITY determines that there is no such conflict of interest, then the CITY shall give its written consent to such representation. If CONSULTANT or SUB-CONSULTANT accepts such a representation without obtaining the CITY'S prior written consent, and if the CITY subsequently determines that there is a conflict of interest between such representation and the work being performed by CONSULTANT or such SUB-CONSULTANT under this Agreement, then the CONSULTANT or SUB-CONSULTANT agrees to promptly terminate such representation. CONSULTANT shall require each of such SUB-CONSULTANTS to comply with the provision of this Section.

Should the CONSULTANT fail to advise or notify the CITY, as provided hereinabove, of representation which could, or does, result in a conflict of interest, or should the CONSULTANT fail to discontinue such representation, the CITY may consider such failure as justifiable cause to terminate this Agreement.

ARTICLE 9.00 - ASSIGNMENT, TRANSFER AND SUB-CONTRACTS

The CONSULTANT shall not assign or transfer any of its rights, benefits or obligations hereunder, except for transfers that result from: (1) the merger or consolidation of CONSULTANT with a third party; or (2) the disestablishment of the CONSULTANT'S professional practice and the establishment of a successor consultant, or consulting organization. Nor shall the CONSULTANT sub-contract any of its service obligations hereunder to third parties, except as otherwise authorized in this Agreement or Amendment(s) thereto, without prior written approval of the CITY. The CONSULTANT shall have the right, subject to the CITY'S prior written approval, to employ other persons and/or firms to serve as SUB-CONSULTANTS and/or SUB-CONTRACTORS to CONSULTANT in connection with CONSULTANT providing and performing services and work pursuant to the requirements of this Agreement. The CITY shall have the right and be entitled to withhold such approval. Such approval shall not be unreasonably withheld.

In the event that the CONSULTANT in providing and performing the services and work required pursuant to this Agreement, CONSULTANT intends to engage the assistance of the SUB-CONSULTANT(S) and/or SUB-CONTRACTOR(S) set forth in EXHIBIT "D", entitled "CONSULTANT'S ASSOCIATED SUB-CONSULTANTS AND SUB-CONTRACTORS", which EXHIBIT "D" is attached hereto and made a part of this Agreement.

ARTICLE 10 - APPLICABLE LAW

Unless otherwise specified, this Agreement shall be governed by the laws, rules, and regulations of the State of Florida, or the laws, rules, and regulations of the United States when providing services funded by the United States Government.

ARTICLE 11 - COVENANTS AGAINST DISCRIMINATION

11.01 FOR PROJECTS WITH FUNDS APPROPRIATED FROM GENERAL CITY REVENUES

The CONSULTANT for itself, its successors in interest, and assigns as part of the consideration thereof, does hereby covenant and agree that in the furnishing of services to CITY hereunder, no person on the grounds of race, color, national origin, handicap, or sex shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination. The CONSULTANT shall make every effort to comply with any MBE goals, which have been established for this project.

11.02 FOR PROJECTS WITH FUNDS APPROPRIATED EITHER IN PART OR WHOLLY FROM FEDERAL, STATE SOURCES OR OTHER SOURCES

The CONSULTANT for itself, its successors in interest, and assigns as part of the consideration thereof, does hereby covenant and agree that in the furnishing of services to CITY hereunder, no person on the grounds of race, color, national origin, handicap, or sex shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination. The CONSULTANT shall comply with the Office of Federal Contract Compliance Programs (OFCCP) and Executive Order 11246 Affirmative Action. CONSULTANTS who are uncertain of their obligations regarding MBE for this project must obtain a copy of all relevant federal, state or other grantor's guidelines from the City of Fort Myers Purchasing and Contracts Administration Division. The failure of the CONSULTANT to adhere to relevant guidelines shall subject the CONSULTANT to any sanctions, which may be imposed upon the CITY.

ARTICLE 12.00 - WAIVER OF BREACH

Waiver by either party of a breach of any provision of this Agreement shall not be deemed to be a waiver of any other breach, and shall not be construed to be a modification of the terms of this Agreement.

ARTICLE 13.00 - INSURANCE

13.01 INSURANCE COVERAGE TO BE OBTAINED

- (1) The CONSULTANT shall obtain and maintain such insurance as will protect the CONSULTANT from: (1) claims under workers' compensation laws, disability benefit laws, or other similar employee benefit laws; (2) claims for damages because of bodily injury, occupational sickness or disease or death of his or her employees including claims insured by usual personal injury liability coverage; (3) claims for damages because of bodily injury, sickness or disease, or death of any person other than his employees including claims insured by usual personal injury liability coverage; and (4) from claims for injury to or destruction of tangible property including loss or use resulting there from; any or all of which claims may arise out of, or result from, the services, work and operations carried out pursuant to and under the requirements of this Agreement, whether such services, work and operations be by the CONSULTANT, its employees, or by any SUB-CONSULTANT(S), SUB-CONTRACTOR(S), or anyone employed by or under the supervision of any of them, or for whose acts any of them may be legally liable.

- (1) The insurance protection set forth hereinabove shall be obtained and written for not less than the limits of liability specified hereinafter, or as required by law, whichever is greater.
- (2) The CONSULTANT shall require, throughout the time this Agreement is in effect, that any and all of its SUB-CONSULTANTS and/or SUB-CONTRACTORS obtains and maintains until the completion of that SUB-CONSULTANT'S and/or SUB-CONTRACTOR'S work, such of the insurance coverage described in Article 13.01, as are required by law, be provided on behalf of their employees and others.
- (3) The CONSULTANT shall obtain, have and maintain during the entire period of this Agreement, all such insurance policies as are set forth and required herein.
- (4) The insurance coverage to be obtained by the CONSULTANT, as set forth in Agreement Article 13.03 for: (1) Worker's Compensation; (2) Commercial General Liability; (3) Commercial Automobile Liability; or (4) Professional Liability is understood and agreed to cover any and all of the services or work set forth in EXHIBIT "A" of this Agreement, or in any and all subsequently executed CHANGE ORDER(S), SUPPLEMENTAL AGREEMENT(S), WORK ASSIGNMENT(S), or WORK ORDER(S). If the total amount of insurance coverage established in, and required by, a CHANGE ORDER, SUPPLEMENTAL AGREEMENT, Work Assignment, or WORK ORDER exceeds the amount of insurance coverage carried by the CONSULTANT, then the CONSULTANT shall be required and expected to acquire such additional insurance, and the compensation established for the CHANGE ORDER, SUPPLEMENTAL AGREEMENT, Work Assignment or WORK ORDER shall include consideration of any additional premium cost incurred by the CONSULTANT to obtain such additional insurance coverage.
- (5) The purchasing of any insurance on the behalf of the CITY shall not waive any defense under Sovereign Immunity.

13.02 CONSULTANT REQUIRED TO FILE INSURANCE CERTIFICATE(S)

- (1) The CONSULTANT, before the Agreement is approved and executed by the CITY, shall submit to the PURCHASING & CONTRACTS ADMINISTRATION DIVISION all such original insurance certificates and related documentation as are required under this Agreement. Before the CITY shall provide the CONSULTANT with written Notice to Proceed, and before the CONSULTANT shall commence any service or work pursuant to the requirements of this Agreement, the CONSULTANT shall obtain and maintain insurance coverages of the types, and to the limits specified hereinafter, and the CONSULTANT shall file with the CITY certificates of

all such insurance coverages. All such Certificates of Insurance are subject to review and approval by the CITY with respect to compliance with the insurance requirements set forth in the Agreement.

- (1) All such insurance certificates shall be in a form and underwritten by an insurance company(s) acceptable to the CITY and licensed in the State of Florida.
- (2) Each Certificate of Insurance submitted to the CITY shall be an original and shall be executed by an authorized representative of the insurance company affording coverage.
- (3) Each Certificate of Insurance shall specifically include all of the following:
 - (A) The name and type of policy and coverages provided; and
 - (A) The amount or limit applicable to each coverage provided and the deductible amount, if any, applicable to each type of insurance coverage being provided; and
 - (B) The date of expiration of coverage; and
 - (C) The designation of the City of Fort Myers, both as an additional insured, and as a certificate holder. (The additional insured requirement is exempt for Professional Liability Insurance and Workers Compensation Insurance); and
 - (D) A specific reference to this Agreement and the Project to which it pertains. (This requirement may be exempt for Professional Liability Insurance); or

In the event the CONSULTANT has, or expects to enter into an agreement for PROFESSIONAL SERVICES other than those provided for in this Agreement; the CONSULTANT may elect to submit a Certificate of Insurance containing the following statement:

"This policy covers the services or work provided or performed by the Named Insured for any and all projects undertaken for the City of Fort Myers pursuant to one or more written PROFESSIONAL SERVICES AGREEMENTS, or written SUPPLEMENTAL AGREEMENTS or CHANGE ORDERS thereto, and the limit(s) of liability shown shall not be intended or construed as applying to only one project."

Upon receipt and approval of such a Certificate of Insurance, a separate Certificate of Insurance will not be required for each separate agreement.

- (E) An identifying statement indicating the identification of any services or work that is included in, or required under, the SCOPE OF PROFESSIONAL SERVICES set forth in EXHIBIT "A" that is specifically excluded or exempted from coverage under the provisions, terms, conditions or endorsements of the CONSULTANT'S insurance policy(s). A statement which indicates any and all deductible amounts applicable to each type of insurance coverage required. In the absence of any such statements of deductible amount(s), or coverage statement of exclusions or exemptions, the CITY will proceed with the understanding, stipulation and condition that there are no deductible amount(s), or exclusions or exemptions to the insurance coverage(s) provided.
 - (F) Name of the Project and/or Project Number should be clearly indicated.
- (4) Each Certificate of Insurance shall be issued by an insurance agent and/or agency duly authorized to do so by, and on behalf of, the insurance company affording the insurance coverage(s) indicated on each Certificate of Insurance.
 - (5) If the initial or any subsequently issued Certificate of Insurance expires prior to completion of the work or termination of this Agreement, the **CONSULTANT shall furnish to the CITY renewal or replacement Certificate(s) of Insurance not later than ten (10) calendar days prior to the date of their expiration.** Failure of the CONSULTANT to provide the CITY with such renewal certificate(s) shall be considered justification for the CITY to terminate this Agreement.
 - (6) It is vitally important that all insurance coverage(s) required under this Agreement be in effect throughout the entire period of this Agreement. If any of the insurance coverage(s) required by this Agreement should reach the date of expiration indicated on the Certificate(s) of Insurance on record with the CITY, without the CITY having received satisfactory evidence in the form of a Certified Binder or a Certificate of Insurance, that the required insurance coverage(s) has either been renewed or replaced, then the CONSULTANT, unless notified in writing by the CITY to continue, shall therefore automatically and without further notice from the CITY, stop performing all previously authorized services and work until such date as the CITY shall receive and approve satisfactory documentation that the

expired insurance coverage(s) has been renewed or replaced. During any time period that the CONSULTANT shall fail to comply with the insurance requirements set forth in the Agreement, the CITY shall not be required to make, nor shall it make payment on any invoices submitted by the CONSULTANT. Payment for any such invoices shall be made promptly by the CITY after the CITY receives and approves the renewal or replacement Certificates of Insurance. During any time period that the CONSULTANT'S services or work is suspended, as provided above, for failure to comply with the insurance requirements set forth in the Agreement, the CONSULTANT shall not be entitled, as a result of such suspension, to any additional compensation or time to provide and perform the required services or work.

13.03 - INSURANCE COVERAGES REQUIRED

The CONSULTANT shall obtain and maintain the following insurance coverages as provided hereinbefore, and in the type, amounts, and in conformance with the following minimum requirements:

(1) WORKERS' COMPENSATION

Insurance covering all employees meeting statutory limits in compliance with the applicable state and federal laws. In addition, the policy must include the following:

- (A) Notice of Cancellation and/or Restriction - The policy must be endorsed to provide the CITY with ten (10) days prior written notice of cancellation and/or restriction.

(2) COMMERCIAL GENERAL LIABILITY

Coverage must be afforded on a form no more restrictive than the last edition of the Commercial General Liability Policy filed by the Insurance Services Office, **or its equivalent**, and must include the following:

- (A) Minimum limits of **\$1,000,000** per occurrence combined single limit; **\$1,000,000** aggregate. This shall include premises and/or Operations, Independent CONTRACTORS, and SUB-CONTRACTORS and/or Completed Operations, Broad Form Property Damage, XCU Coverage, and a Contractual Liability Endorsement.
- (B) Contractual coverage applicable to this specific Agreement including any hold harmless and/or such indemnification agreement excluding professional acts.

- (C) Such additional requirements as are set forth in Article 13.01 and 13.02 hereinabove.

(3) COMMERCIAL AUTOMOBILE LIABILITY

Coverage must be afforded on a form no more restrictive than the latest edition of the Commercial Automobile Liability Policy filed by the Insurance Services Office, **or its equivalent**, and must include the following:

- (A) Minimum limits of **\$1,000,000** combined single limit liability.
- (B) Coverage shall include owned vehicles, hired, leased, non-owned vehicles, employee non-ownership.
- (C) Such additional requirements as are set forth in Articles 13.01 and 13.02 hereinabove.

(4) PROFESSIONAL LIABILITY

Coverage must include the following:

- (A) A minimum combined single limit of **\$1,000,000**.
- (A) Such additional requirements as are set forth in Articles 13.01 and 13.02 hereinabove.
- (B) Should the Professional Liability Insurance Policy issued pursuant to the above requirements and limits be written, so as to provide an applicable deductible amount, or other exclusion or limitation as to the amount of coverage to be provided within the minimum coverage limits set forth above, the CITY shall hold the CONSULTANT responsible and liable for any such difference in the amount of coverage provided by the insurance policy. In the event of any such deductible amount, exclusion or limitation, the CONSULTANT shall be required to provide written documentation that is acceptable to the CITY establishing that the CONSULTANT has the financial resources readily available to cover damages, injuries and/or losses which are not covered by the policy's deductible amounts, exclusions and/or limitations as stated above.

ARTICLE 14.00 - DUTIES AND OBLIGATIONS IMPOSED ON THE CONSULTANT

The duties and obligations imposed upon the CONSULTANT by this Agreement, and the rights and remedies available hereunder, shall be in addition to, and not a limitation of, any otherwise imposed or available by law or statute.

ARTICLE 15.00 - REPRESENTATION OF THE CITY

The CONSULTANT in providing and performing the services and work required pursuant to this Agreement, and Amendments thereto, shall only represent the CITY in the manner and to the extent specifically set forth in writing in this Agreement or Amendments thereto, and as provided in any written WORK ORDER(S), SUPPLEMENTAL AGREEMENT(S), and CHANGE ORDER(S) issued thereunder.

In the event the CONSULTANT'S services or work involves construction contract administrative support services, the CONSULTANT is not authorized to act on the CITY'S behalf, and shall not act on the CITY'S behalf, in such a manner as to result in change(s) to (1) the cost or compensation to be paid the construction contractor, or (2) the time for completing the work as required and agreed to in the construction contract, or (3) the scope of the work set forth in the construction contract documents, unless such representation is specifically provided for, set forth and authorized in this Agreement or Amendment thereto.

The CITY will neither assume nor accept any obligation, commitment, responsibility or liability, which may result from representation by the CONSULTANT, not specifically provided for and authorized as stated hereinabove.

ARTICLE 16.00 - OWNERSHIP OF DOCUMENTS

All documents such as drawings, tracings, notes, computer files, photographs, plans, specifications, maps, evaluations, reports and other records and data relating to this project, other than working papers, specifically prepared or developed by the CONSULTANT under this Agreement, shall be property of the CONSULTANT until the CONSULTANT has been paid for providing and performing the services and work required to produce such documents.

Upon completion or termination of this Agreement, or upon the issuance by the CITY of a written CHANGE ORDER deleting all or portions of the scope of services or task(s) to be provided or performed by the CONSULTANT, all of the above documents, to the extent requested in writing by the CITY, shall be delivered by the CONSULTANT to the CITY within seven (7) calendar days of the CITY making such a request. In the event the CITY gives the CONSULTANT a written Notice of Termination of all, or part of, the services or work required, or upon the issuance to the CONSULTANT by the CITY of a written CHANGE ORDER deleting all, or part of, the services or work required, the CONSULTANT shall deliver to the CITY the requested documents as set forth hereinabove, with the mutual understanding and commitment by the CITY that compensation earned or owing to the CONSULTANT, for services or work provided or performed by the CONSULTANT prior to the effective date of any such termination or deletion, will be paid to the CONSULTANT within thirty (30) calendar days of the date of issuance of the Notice of Termination or CHANGE ORDER. Effective date of any such termination or deletion will be paid to the CONSULTANT within thirty (30) calendar days of the date of issuance of the Notice of Termination or CHANGE ORDER.

The CONSULTANT, at its expense, may make and retain copies of all documents delivered to the CITY for reference and internal use. The CONSULTANT shall not, and agrees not to, use any of these documents, and data and information contained therein, on any other project, or for any other client, without the prior expressed written permission of the CITY.

Any use by the CITY of said documents, and data and information contained therein, obtained by the CITY under the provisions of this Agreement, for any purpose not within the scope of this Agreement, shall be at the risk of the CITY, and without liability to the CONSULTANT. The CITY shall be liable, and agrees to be liable for, and shall indemnify, defend and hold the CONSULTANT harmless for any and all claims, suits, judgments or damages, losses and expenses including court costs, expert witness and professional consultation services, and attorneys' fees arising out of the CITY'S use of such documents in a manner contrary to the provisions set forth hereinabove.

ARTICLE 17.00 - MAINTENANCE OF RECORDS

The CONSULTANT will keep and maintain adequate records and supporting documentation applicable to all of the services, work, information, expense, costs, invoices and materials provided and performed pursuant to the requirements of this Agreement. Said records and documentation will be retained by the CONSULTANT for a minimum of ten (10) years from the date of termination of its respective applicable project.

The CITY and its authorized agents shall, with reasonable prior notice, have the right to audit, inspect and copy all such records and documentation, as often as the CITY deems necessary, during the period of this Agreement, and during the period of ten (10) years thereafter; provided, however, such activity shall be conducted only during normal business hours and at the expense of the CITY, and provided further that to the extent provided by law the CITY shall retain all such records confidential.

The CITY shall have access to any and all books and records necessary to validate contractual compliance, accuracy of disbursement/receipt documentation, and accuracy of other information provided to the CITY. All documentation shall be requested in writing by the CITY and shall be made available at the CITY offices: 2200 Second Street, Fort Myers, Florida 33901 within 30 days of request. Failure to provide documents as requested will result in a daily penalty of \$100.

ARTICLE 18.00 – HEADINGS

The HEADINGS of the Articles, Sections, Exhibits, Attachments, Phases or Tasks, as contained in this Agreement, are for the purpose of convenience only and shall not be deemed to expand, limit or change the provisions contained in such Articles, Sections, Exhibits, Attachments, Phases or Tasks.

ARTICLE 19.00 - ENTIRE AGREEMENT

This Agreement, including referenced Exhibits and Attachments hereto, constitutes the entire Agreement between the parties hereto and shall supersede, replace and nullify any and all prior agreements or understandings, written or oral, relating to the matters set forth herein, and any such prior agreements or understandings shall have no force or effect whatever on this Agreement.

The following listed documents, which are referred to hereinbefore, are attached to and are acknowledged, understood and agreed to be an integral part of this Agreement:

- (1) EXHIBIT "A" entitled "SCOPE OF PROFESSIONAL SERVICES"
- (2) EXHIBIT "B" entitled "COMPENSATION AND METHOD OF PAYMENT"
- (3) EXHIBIT "C" entitled "TIME AND SCHEDULE OF PERFORMANCE"
- (4) EXHIBIT "D" entitled "CONSULTANT'S ASSOCIATED SUB-CONSULTANT(S) AND SUB-CONTRACTOR(S)"
- (5) EXHIBIT "E" entitled "PROJECT GUIDELINES AND CRITERIA"
- (6) EXHIBIT "F" entitled "TRUTH IN NEGOTIATION CERTIFICATE"
- (7) EXHIBIT "G" entitled "MINORITY BUSINESS ENTERPRISE"
- (8) EXHIBIT "H" entitled "SWORN STATEMENT UNDER SECTION 287.133(3)(A), FLORIDA STATUTES ON PUBLIC ENTITY CRIMES"
- (9) EXHIBIT "I" entitled "INSURANCE". (Containing copies of applicable Certificates of Insurance)
- (10) EXHIBIT "J" entitled "EMPLOYMENT ELIGIBILITY VERIFICATION SYSTEM (E-VERIFY)"

ARTICLE 20.00 - NOTICES AND ADDRESS OF RECORD

20.01 NOTICES BY CONSULTANT TO CITY

All notices from the CONSULTANT to the CITY, shall be in writing and deemed duly served if mailed by registered or certified mail to the CITY at the following address:

City Clerk
City of Fort Myers
Post Office Box 2217
Fort Myers, Florida 33902-2217

20.02 NOTICES BY CITY TO CONSULTANT

All notices from the CITY to the CONSULTANT, shall be in writing and deemed duly served if mailed by registered or certified mail to the CONSULTANT at the following address:

Al Quattrone, PE
Quattrone & Associates, Inc.
4301 Veronica Shoemaker Boulevard
Fort Myers, Florida 33916

20.03 CHANGE OR ADDRESS OF RECORD

Either party may change its address of record by written notice to the other party given in accordance with the requirements of this Article.

ARTICLE 21.00 - TERMINATION

This Agreement will terminate three (3) years after the effective date indicated on Page One (1) unless the City exercises the right to request an extension. This Agreement may also be terminated by the CITY at its convenience, or due to the fault of the CONSULTANT, by the CITY giving thirty (30) days written notice to the CONSULTANT.

If the CONSULTANT is adjudged bankrupt or insolvent; if it makes a general assignment for the benefit of its creditors; if a trustee or receiver is appointed for the CONSULTANT or for any of its property; if it files a petition to take advantage of any debtor's act or to reorganize under the bankruptcy or similar laws; if it disregards the authority of the CITY'S designated representatives; if it otherwise violates any provisions of this Agreement; or for any other just cause, the CITY may, without prejudice to any other right or remedy, and after giving the CONSULTANT a thirty (30) calendar day written notice, terminate this Agreement.

In addition to the CITY'S contractual right to terminate this Agreement in its entirety, as set forth above, the CITY may also, at its convenience, stop, suspend, supplement or otherwise change all, or any part of, the SCOPE OF PROFESSIONAL SERVICES, as set forth in Exhibit "A", or the Project Guidelines and Criteria, as set forth in EXHIBIT "E", or as such may be established by SUPPLEMENTAL AGREEMENT or CHANGE ORDER AGREEMENT. The CITY shall provide written notice to the CONSULTANT in order to implement a stoppage, suspension, supplement or change.

The CONSULTANT may request that this Agreement be terminated by submitting a written notice to the CITY dated not less than thirty (30) calendar days prior to the requested termination date and stating the reason(s) for such a request. However, the CITY reserves the right to accept, or not accept, the termination request submitted by the CONSULTANT, and no such termination request submitted by the CONSULTANT shall become effective unless, and until, CONSULTANT is notified, in writing, by the CITY of its acceptance.

21.01 CONSULTANT TO DELIVER MATERIALS ON TERMINATION

Upon termination, the CONSULTANT shall deliver to the CITY all papers, drawings, models, and other material in which the CITY has exclusive rights by virtue hereof or of any business done, or services or work performed or provided by the CONSULTANT on behalf of the CITY.

ARTICLE 22.00 - AMENDMENTS

The covenants, terms and provisions set forth and contained in all of the Articles to this Agreement may be amended upon the mutual acceptance thereof, in writing, by both parties to this Agreement, as evidenced by the execution by both parties of an Amendment Agreement. The City Manager of the City of Fort Myers shall act on behalf of the CITY in executing such Amendment Agreement(s). The CONSULTANT named hereinabove as a party to this Agreement, as an individual, or if a corporation, shall act in executing such Amendment Agreement(s). In the event of any conflicts between the requirements, provisions and/or terms of the Agreement, and any written Amendment Agreement(s), the requirements, provisions and/or terms of the latest executed Amendment Agreement shall take precedence.

ARTICLE 23.00 - MODIFICATIONS

Modifications to covenants, terms and provisions of this Agreement shall only be valid when issued in writing as a properly executed Amendment(s), or SUPPLEMENTAL AGREEMENT(S), or WORK ORDER(S), or CHANGE ORDER(S). In the event of any conflicts between the requirements, provisions, and/or terms of this Agreement and any written Amendment(s), SUPPLEMENTAL AGREEMENT(S), WORK ORDER(S), and/or CHANGE ORDER(S), the latest executed Amendment(s), SUPPLEMENTAL AGREEMENT(S), WORK ORDER(S), and/or CHANGE ORDER(S) shall take precedence.

In the event the CITY issues a purchase order, memorandum, letter, or other instruments covering the PROFESSIONAL SERVICES, work and materials to be provided and performed pursuant to this Agreement, it is hereby specifically agreed and understood that such purchase order, memorandum, letter or other instruments are for the CITY'S internal control purposes only, and any and all terms, provisions and conditions contained therein, whether printed or written, shall in no way modify the covenants, terms and provisions of this Agreement and shall have no force or effect thereon.

No modification, waiver, or termination of the Agreement, or of any terms thereof, shall impair the rights of either party.

ARTICLE 24.00 - PROHIBITION AGAINST CONTINGENT FEES

The CONSULTANT (architect or registered land surveyor or professional engineer, as applicable) warrants that he 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 agreement, and that he 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 other consideration contingent upon, or resulting from, the award or making of this Agreement.

ARTICLE 25.00 - NO GUARANTEE OF WORK

This is a Continuing Contract. All items listed as "to be determined" will be negotiated to the sole satisfaction of the CITY's designated Project Manager prior to starting any assignment. There is no guarantee that any work will be assigned and authorized under this contract.

ARTICLE 26.00 – LIMITS ON FEES AND CONSTRUCTION COST

All professional services under this agreement shall be limited to projects where estimated construction costs do not exceed limits set forth by Florida State Statute 287.055, Acquisition of professional architectural, engineering, landscape architectural, or surveying and mapping services.

ARTICLE 27.00 - EMPLOYMENT ELIGIBILITY VERIFICATION SYSTEM (E-Verify)

Statutes and executive orders require employers to abide by the immigration laws of the United States and to employ in the United States only individuals who are eligible to work in the United States. The E-Verify program provides an Internet-based means of verifying employment eligibility of workers employed in the United States, but is not a substitute for any other employment eligibility verification requirements.

The program will be used for:

- a. Commercial or noncommercial services or construction
- b. Projects which exceed the City of Fort Myers small dollar threshold.
- c. Work performed in the United States.

Exceptions to the program:

- a. Commodity based procurement where no services are provided.
- b. In exceptional cases, the City Council may waive the requirement.

Vendors, who are not enrolled in the program at the time of contract award, must enroll and produce a copy of the Memorandum of Understanding prior to execution of the contract. Upon signing up for the program, the vendor must follow the federal guidelines

PROFESSIONAL SERVICES AGREEMENT
Civil Engineering Services – Continuing Contract, RFQ #10-29-14-PW
Quattrone & Associates, Inc.

for verifying all their employees, whether assigned to the contract or not, in accordance with the Verification of Employment Eligibility.

Vendors that are already enrolled in the program must produce a copy of their Memorandum of Understanding prior to execution of the contract. Vendors must follow the federal guidelines for verifying all their employees, whether assigned to the contract or not, in accordance with the Verification of Employment Eligibility.

Subcontractor requirement: Vendors shall require all subcontracted vendors to flow down the requirement to use E-Verify to subcontractors.

It shall be the vendor's responsibility to familiarize themselves with all rules and regulations governing this program.

For additional information regarding the Employment Eligibility Verification System (E-Verify) program visit the following website: <http://www.dhs.gov/E-Verify>

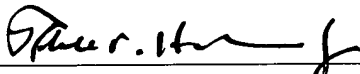
PROFESSIONAL SERVICES AGREEMENT

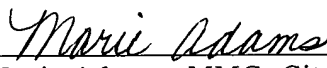
Civil Engineering Services for the City of Fort Myers – Continuing Contract, RFQ #10-29-14-PW
Quattrone & Associates, Inc.

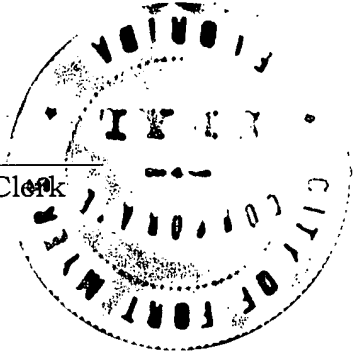
IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives,
have executed this Agreement on the dates shown below to be effective the day and
year first shown above.

CITY OF FORT MYERS, FLORIDA
a Municipal Corporation

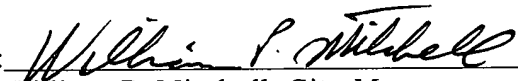
ATTEST:

By: 
Randall P. Henderson, Jr., Mayor


Marie Adams, MMC, City Clerk



Date: 8/11/2015

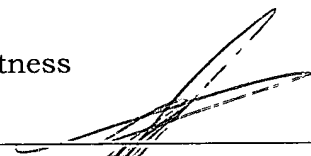
By: 
William P. Mitchell, City Manager

Date: 8/10/2015

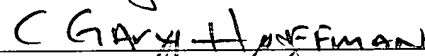
APPROVED AS TO FORM:


Grant Williams Alley, City Attorney

Witness

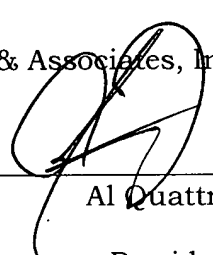


Name: Sergio Guzman, E.I.



Name: 

Quattrone & Associates, Inc.

By: 

Al Quattrone

Title: President

Date: March 31, 2015

Corporate License _____

CORPORATE SEAL



EXHIBIT A

SCOPE OF SERVICES

Date: March 31, 2015

For:

Civil Engineering Services for the City of Fort Myers – Continuing Contract RFQ #10-29-14-PW

BASIC SERVICES

Section 1. GENERAL SCOPE STATEMENT

The CONSULTANT shall provide and perform the following PROFESSIONAL SERVICES which shall constitute the GENERAL SCOPE of the SERVICES under the covenants, terms, and provisions of this PROFESSIONAL SERVICES AGREEMENT:

(Full details of the General Scope of Services are contained in the referenced Project Name and RFQ document number shown above. This scope is incorporated by reference.)

Section 2. TASKS

Pursuant to the GENERAL SCOPE of the SERVICES stated hereinabove, the CONSULTANT shall perform all services and/or work necessary to complete the following task(s) and/or provide the following item(s) which are enumerated to correspond to the task(s) and/or items set forth in EXHIBIT "B" entitled "COMPENSATION AND METHOD OF PAYMENT".

NOTE:

This Professional Services Agreement is a Continuing Contract.
A separate Task Assignment document with a specific Scope of Work will be issued as tasks are assigned by the City.

Work performed under this agreement will be for projects where estimated construction costs do not exceed limits set forth by Florida State Statute 287.055, Acquisition of professional architectural, engineering, landscape architectural, or surveying and mapping services.

Individual Project Tasks which have a dollar value in excess of One Hundred Thousand Dollars (\$100,000) will be authorized by City Council.

Date: March 31, 1015

EXHIBIT B

COMPENSATION AND METHOD OF PAYMENT

Section 1. BASIC SERVICES/TASK(S)

The CITY shall compensate the CONSULTANT for providing and performing the Task(s) set forth and enumerated in EXHIBIT "A", entitled "SCOPE OF SERVICES", as follows:

Note: A Lump Sum (L.S.) or Not-to-Exceed (N.T.E.) amount of compensation to be paid the CONSULTANT should be established and set forth below for each task or sub-task described and authorized in Exhibit "A".

Task Number	Task Title	Amount of Compensation	Indicate Basis of Compensation LS or NTE

TOTAL

Section 2. ADDITIONAL SERVICES

The CITY shall compensate the CONSULTANT for such ADDITIONAL SERVICES as are requested and authorized in writing for such amounts, or on such a basis, as may be mutually agreed to in writing by both parties to this Agreement. The basis and/or amount of compensation to be paid the CONSULTANT for ADDITIONAL SERVICES requested and authorized in writing by the CITY shall be as set forth in Article 3.11 of this Agreement.

Should it be mutually agreed to base compensation for ADDITIONAL SERVICES on an hourly rate charge basis for each involved professional and technical employee's wage rate classification, the applicable hourly rates to be charged are as set forth and contained in ATTACHMENT NO. 1 hereto, dated March 31, 2015, entitled "CONSULTANT'S PERSONNEL HOURLY RATE SCHEDULE".

Section 3. REIMBURSABLE EXPENSES AND COSTS

When the CONSULTANT'S compensation and method of payment is based on an hourly rate for professional and/or technical personnel, the CONSULTANT shall, in addition to such hourly rates as are set forth in Attachment No. 1 hereto, be entitled to reimbursement of out-of-pocket, non-personnel expenses and costs as set forth in ATTACHMENT 2 hereto dated March 31, 2015, entitled "NON-PERSONNEL REIMBURSABLE EXPENSES AND COSTS".

ATTACHMENT NO. 1 TO EXHIBIT B

Date: March 31, 2015

CONSULTANT'S PERSONNEL HOURLY RATE SCHEDULE ***

CONSULTANT OR SUB-CONSULTANT NAME Quattrone & Associates, Inc
(A separate Attachment No. 1 should be included for each Sub-Consultant)

(1) Project Position or Classification (Function to be Performed)	(2) Current Direct* Payroll Average Hourly Rate	(3) Multiplier**	(4) Hourly Rate to be Charged (Column 2x3)
<u>Principle</u>	<u>\$60</u>	<u>3</u>	<u>\$180</u>
<u>Senior Engineer</u>	\$55	3	\$165
<u>Project Engineer</u>	\$50	3	\$150
<u>Engineer, EI</u>	\$42	3	\$125
<u>Sr. Cadd Tech</u>	\$38	3	\$115
<u>Jr. Cadd Tech</u>	\$32	3	\$95
<u>Administrative</u>	\$25	3	\$75

*NOTE: Direct Payroll hourly rate means the actual gross hourly wage paid.

**NOTE: Indicate applicable multiplier for indirect personnel costs, general administrative and overhead costs, and profit.

***NOTE: A separate personnel hourly rate schedule should also be attached for each SUB-CONSULTANT listed in Exhibit "D".

ATTACHMENT NO. 2 TO EXHIBIT B

Date: March 31, 2015

NON-PERSONNEL REIMBURSABLE EXPENSES AND COSTS

CONSULTANT OR SUB-CONSULTANT NAME Quattrone & Associates, Inc
(A separate Attachment No. 2 should be included for each SUB-CONSULTANT)

ITEM	BASIS OF CHARGE
Telephone (Long Distance)	Actual Cost
Other Communications	Actual Cost
Postage	Actual Cost
Shipping Material	Actual Cost
Commercial Air Travel	Actual Cost Plus 10% (Coach)
Automobile & Truck Travel	N.T.E. \$0.44.5/Mile
Lodging (Per Person) Actual expense up to maximum \$80	N.T.E. \$80.00/Night
Meals (Breakfast)	N.T.E. \$ 6.00
(Lunch)	N.T.E. \$ 11.00
(Dinner)	N.T.E. \$19.00
Reproduction (Photocopy)	\$ 0.20/Page
Reproduction (Blue/White Prints)	\$ 0.20/Sq. Ft.
Printing	Actual Cost
Binding	Actual Cost
Mylar Sheets	\$1.10/Sq. Ft.
Photographic Supplies & Services	Actual Cost Plus 10%
Administrative Service Fee – Applicable only when specifically authorized in writing by the CITY, for administering the procurement of special additional services, equipment, etc. not covered under the costs and/or changes established in the Agreement.	10%

NOTE: N.T.E. indicates Not-To-Exceed

EXHIBIT C

Date: March 31, 2015

TIME AND SCHEDULE OF PERFORMANCE

This EXHIBIT C establishes times of completion for the various phases and tasks required to provide and perform the services and work set forth in EXHIBIT "A" of this Agreement. The times and schedule of performance set forth hereinafter is established pursuant to Article 6.00 of this Agreement.

Phase and/or Task Reference as Enumerated in EXHIBIT "A"	Name or Title of Phase and/or Task	Number of Calendar Days For Completion of Each Phase and/or Task	Cumulative Number of Calendar Days For Completion From Date of Notice to Proceed

PROFESSIONAL SERVICES AGREEMENT

Civil Engineering Services for the City of Fort Myers – Continuing Contract, RFQ #10-29-14-PW
Quattrone & Associates, Inc.

EXHIBIT D

Date: March 31, 2015

CONSULTANT'S ASSOCIATED SUB-CONSULTANT(S) AND SUB-CONTRACTOR(S)

CONSULTANT has identified the following SUB-CONSULTANT(S) and/or SUB-CONTRACTOR(S) which may be engaged to assist the CONSULTANT in providing and performing services and work on this Project.

PROJECT NAME: _____

SUB-CONSULTANT: _____

(If none, enter the word "none" in the space below.)

Service and/or Work to be Provided or Performed	Name and Address of Individual or Firm	Disadvantaged Business Enterprise. (If Yes, Indicate Type)			SUB-CONSULTANT Services are Exempted from Prime Consultant's Insurance Coverage	
		Yes	No	Type	Yes	No

PROFESSIONAL SERVICES AGREEMENT

Civil Engineering Services for the City of Fort Myers – Continuing Contract, RFQ #10-29-14-PW
Quattrone & Associates, Inc.

EXHIBIT E

Date: March 31, 2015

PROJECT GUIDELINES AND CRITERIA

The CITY has established the following Guidelines, Criteria, Goals, Objectives, Constraints, Schedule, Budget and/or Requirements which shall serve as a guide to the CONSULTANT in performing the PROFESSIONAL SERVICES and work to be provided pursuant to this Agreement:

(If none, enter the word "none" in the space below.)

Item No. 1

None

EXHIBIT F

Date: March 31, 2015

TRUTH IN NEGOTIATION CERTIFICATE

This Certificate is executed and given by the undersigned as a condition precedent to entering into a PROFESSIONAL SERVICES AGREEMENT with the City of Fort Myers for the project known as:

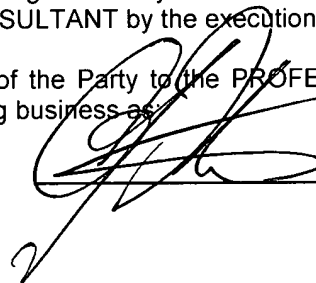
For: Civil Engineering Services for the City of Fort Myers – Continuing Contract
RFQ #10-29-14-PW

Before me, the undersigned authority personally appeared, who having personal knowledge as to the facts and statement contained herein after being duly sworn, deposes and states under oath that:

1. This Certificate shall be attached to and constitute an integral part of the above said PROFESSIONAL SERVICES AGREEMENT as provided in Article 3.12.
2. The undersigned hereby certifies that the wage rates and other factual unit costs supporting the compensation on which this PROFESSIONAL SERVICES AGREEMENT is established are accurate, complete, and current on the date set forth here-in-above.
3. The truth of statements made herein may be relied upon by the CITY and the undersigned is fully advised of the legal effect and obligations imposed upon the CONSULTANT by the execution of this instrument under oath.

Executed on behalf of the Party to the PROFESSIONAL SERVICES AGREEMENT referred to as the CONSULTANT, doing business as:

BY:

 _____
Quattrone & Associates, Inc.

Alfred Quattrone
«Authorized Officer»

TITLE:

President/ Owner
Title

The foregoing instrument was acknowledged and executed before me by the above signed on this 31st day of March, 2015.

Notary Seal



 _____
Notary Public, State of Florida at Large

My commission expires: 3/7/16

EXHIBIT G

ARTICLE V. MINORITY BUSINESS ENTERPRISE PROGRAM

Sec. 38-122. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Business location means a permanent office or other site where a local business conducts, engages in or carries on all or a portion of its business; has personnel, equipment and materials within the boundaries of the county sufficient to constitute a present ability to perform the service and/or provide the goods. Business stationery and business cards must make a specific reference to a county address. A post office box or a location at a postal service center shall not constitute a business location.

Construction means the erection, rehabilitation, alteration, conversion, extension, demolition or repair of improvements to real property, including facilities providing utility service, and includes the supervision, inspection and other on-site functions incidental to construction.

Contract means a binding agreement by which the city is committed to expend or does expend its funds or other resources for or in connection with any of the following purposes:

- (1) Construction of any public improvements;
- (2) Purchase of any goods or services;
- (3) Procurement of professional services.

Contractor means a separate and distinguishable business entity participating or seeking to participate in the performance of a contract.

County business means any person, firm, partnership, company or corporation which is duly licensed and authorized to engage in the particular business for which a proposal is submitted, and whose principal place of business, in the sole opinion of the city, is located within the boundaries of the county.

Goods means any tangible personal property, other than services or real property.

Minority business enterprise means a business certified by the state office of supplier diversity and a registered city vendor, where the primary place of business is within the county, as demonstrated by holding all applicable licenses and/or certifications as required.

Professional services means those services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered surveying

or mapping as defined by state statutes, or those performed by any architect, professional engineer, landscape architect, or registered surveyor or mapper in connection with his professional employment or practice.

Purchasing manager means the principal public purchasing official for the city, who shall be responsible for the procurement of supplies, services and construction in accordance with the city purchasing policy and procedures manual.

Services means the furnishing, primarily, of labor, time and/or effort, including construction contracts, if licensed as required.

Sec. 38-123. Created; purpose; applicability.

There is created a minority business enterprise program to assist and protect the interests of minority businesses in order to promote and encourage full and open competition in the city, and to enhance opportunities for individuals to successfully compete in a free market as independent business owners in the city. The program shall apply to all contracts and shall include the taking of steps to increase the participation of minority business enterprises.

Sec. 38-124. Administration; assistance; utilization.

(a) Administration. The purchasing division shall administer this article by utilizing those businesses within the county on the state office of diversity list of certified minority businesses for participation in city contracts.

(b) Assistance. The purchasing division shall provide appropriate assistance and direction to minority business enterprises so as to maximize their participation in contracts awarded by the city.

(c) Utilization.

- (1) This subsection (c) is applicable to procurement of construction contracts (see, section 38-125) and professional services (see, section 38-127); and goods and services (see section 38-126).
- (2) Bidders shall meet or exceed, or demonstrate that they could not meet, despite their good faith efforts, the contract goals set by the city. Certain minority business enterprise participation information shall be submitted with the bid proposals as required. Award of the bid shall be conditioned upon submission of the minority business enterprise participation information with bid proposals, and upon satisfaction of the contract goals or, if the goals are not met, upon demonstration that sufficient good faith efforts were made to meet the goals.
- (3) Bidders are encouraged to perform the following:
 - a. Attend pre-bid conferences to address minority business enterprise compliance questions.

PROFESSIONAL SERVICES AGREEMENT

Civil Engineering Services for the City of Fort Myers – Continuing Contract, RFQ #10-29-14-PW
Quattrone & Associates, Inc.

- b. Thoroughly review the minority business enterprise program regulations and accompanying forms early in the bidding preparation process to adequately comply and have questions timely addressed.
 - c. Contact the purchasing division regarding questions.
 - d. Comply with the forms to be submitted with bids to avoid a non-responsiveness ruling.
 - e. Complete all forms fully and accurately.
- (4) The city shall provide a list of qualified minority business enterprises that are state certified within the county with distribution of the bid package on the bid issuance date. If additional minority business enterprise names are added during the bid solicitation term, an addendum may be issued. However, if an addendum is not issued, the originally distributed minority business enterprise list shall be utilized. Bidders are required to include documentation and utilization forms as part of their submittal package as follows:
 - a. General contractor or professional information.
 - b. Schedule of minority business enterprise participation.
 - c. Failure to submit completed utilization forms may result in a general contractor's bid being deemed non-responsive and the bid being rejected. If no minority business enterprise participation is proposed, it should be so stated on the forms as required.
 - d. The city reserves the right to request copies of proposals submitted by a minority business enterprise to the contractor or professional. Copies of said proposals shall be sent by facsimile or hand delivered to the purchasing division within 24 hours after the request is made. If the proposals are not delivered within the 24-hour period, the contractor or professional may be deemed non-responsive.
- (5) Sufficient information to demonstrate that the contractor or professional made a good faith effort to meet the goal should be submitted with the bid. Contractors or professionals must use the good faith effort format and forms provided by the city in soliciting minority business enterprise participation and submit these forms, completed in full with their submittal.
- (6) In evaluating the good faith effort of a contractor or professional, the city requires documented notice from the contractor or professional by facsimile transmittal, certified mail, return receipt requested, or hand delivered, with receipt, to certified minority business enterprise participants, that perform the type of work, which the contractor or professional intends to subcontract. The contractor or professional shall indicate the following in the notice to minority business enterprises:

PROFESSIONAL SERVICES AGREEMENT

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- a. The specific work the contractor or professional intends to subcontract, including contract plans and specifications related to the specific sub-contract work requested;
 - b. Along with good faith effort forms a summation of all minority business enterprise quotations received and an explanation of why any minority business enterprise participant was not selected. If the minority business enterprise participant was not selected, the name of the subcontractor and price submitted for that portion of the work shall be listed.
- (7) The city will evaluate the good faith efforts of a contractor or professional by considering the following:
 - a. Whether a minority business enterprise is qualified to perform the portions of work selected by the contractor or professional. The ability of a contractor or professional to perform the work with its own work force will not excuse a contractor or professional from meeting the minority business enterprise goals.
 - b. Whether the minority business enterprise goals were met by other bidders.
- (8) Failure to satisfy any of the above-referenced documentation requirements may result in bid submittals being deemed nonresponsive. All documentation must be complete and included in the bid submittal. Good faith efforts to meet the minority business enterprise goals shall be documented. The appropriate form shall reflect whether a good faith effort was made or assistance was offered but not accepted by the minority business enterprise firm.
- (9) The contractor or professional shall provide an annual reporting system to document the percentage of contracts that have been awarded to minority business enterprises.
- (d) Exemptions to minority business enterprise utilization. The minority business enterprise utilization in this section shall not apply to contracts or purchases as follows:
 - (1) Purchases or contract for which funding is received and minority business enterprise utilization is superseded by any other laws, rules, regulations or policies.
 - (2) Purchases made utilizing cooperative purchasing agreements with other governmental entities.
 - (3) Purchases made under emergency procedure situations as set forth in the Purchasing Policy and Procedures Manual, on file in the city clerks office.
 - (4) Purchases made for items that have been deemed as a single source and/or standard items utilized by the city.

Sec. 38-125. Construction contract requirements.

(a) The following requirements are adopted by the city for the purpose of increasing the level of minority business enterprise participation in city contracts. As a goal, the city should utilize minority business enterprises for 15 percent of the total dollars when contracting for construction contracts through prime contracts or subcontracts.

(b) Nothing shall prohibit a higher percentage participation by minority business enterprises whereby minority business enterprises possess the qualifications to perform 100 percent of the contract.

(c) In the event a minority business enterprise has been selected, but is not utilized on the awarded job, the general contractor is obligated to offer this trade area to another certified and licensed minority business enterprise before seeking a nonminority business enterprise subcontractor to perform the contracted work. If no other minority business enterprise is available or does not enter into a contract, the general contractor may use a nonminority business enterprise. A nonminority business enterprise contract shall not be executed between the general contractor and the nonminority business enterprise subcontractor without full knowledge and approval of the contracts administration division and the purchasing division.

(d) The contracts administrator shall be responsible for monitoring the execution of the contract between the general contractor and all minority business enterprise subcontractors. Presentation of an approved, executed minority business enterprise contract is a prerequisite to execution of a contract between the city and the general contractor, within ten days after award of the contract.

(e) The general contractor shall provide the minority business enterprise subcontractor with ten percent of the minority business enterprise contract amount as funds for mobilization in advance of the commencement of construction. The total minority business enterprise mobilization funds will be indicated as a separate line item on the schedule of values. Contractors are required to pay minority business enterprise contractors within 30 days of receipt of payment from the city.

(f) All bid utilization forms must include a break down between labor and material.

Sec. 38-126. Goods and services requirements.

(a) The procurement of goods and services under this section is for minority business enterprises providing 100 percent of the goods and services.

(b) The purchasing division shall maintain a list of services provided by minority business enterprises located in the county that are on the state office of diversity list of certified minority businesses for participation in city contracts that will be used when the city is purchasing goods and services under \$25,000.00, but more than the established small dollar threshold for the city. Those measures shall include

PROFESSIONAL SERVICES AGREEMENT

Civil Engineering Services for the City of Fort Myers – Continuing Contract, RFQ #10-29-14-PW
Quattrone & Associates, Inc.

a provision that every effort will be made by purchasing agents to contact all minority business enterprises within a particular commodity area for purchases under \$25,000.00, but more than the established small dollar threshold for the city. Awards of purchases under \$25,000.00, but more than the established small dollar threshold for the city will be made to the lowest responsible, responsive bidder unless a minority business enterprise is within seven percent of the lowest nonminority business enterprise bid, then the award shall be made to the minority business enterprise submitting the lowest bid.

(c) The minority business enterprise participation measures provide that every effort will be made by purchasing agents to contact all minority business enterprises within a particular commodity area for purchases over \$25,000.00. Awards of purchases over \$25,000.00 will be made to the lowest responsible, responsive bidder unless a minority business enterprise is within six percent or up to \$10,000.00, whichever is less, of the lowest nonminority business enterprise bid, then the award shall be made to the minority business enterprise submitting the lowest bid.

Sec. 38-127. Professional service requirements.

(a) The city will provide contracting opportunities for professional services pursuant to state statutes, as amended, known as the Consultant's Competitive Negotiation Act, which requires that one element of consideration is minority business enterprise participation.

(b) The contracts administration division and the purchasing division shall make every effort to increase minority business enterprise participation within a particular profession during a solicitation for professional services.

(c) A point system shall be utilized to determine the recipient of the contract award. Businesses submitting proposals to provide professional services to the city will be eligible to receive points, not to exceed 12 percent of the total number of possible points awarded, for minority business enterprise participation.

(d) It will be the responsibility of the firm submitting a proposal to furnish all the necessary information to the city in order to receive points for minority business enterprise participation.

Sec. 38-128. Sanctions.

(a) Every contract awarded under this article shall contain language indicating that if any document submitted to the city by a contractor, subcontractor, bidder or individual to be certified and licensed as a minority business enterprise for the purpose of participating in any contract contains false, misleading or fraudulent information, or any person knowingly engaged in fraud, misrepresentation or in any attempt, direct or indirect, to evade the provisions of this article by providing false, misleading or fraudulent information, the purchasing manager shall debar for cause following the debarment or suspension procedures provided in the purchasing policies and procedures manual. Any contractor that does not use the minority business

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Quattrone & Associates, Inc.

enterprise specified in the bid proposal shall be sanctioned. The sanctions on the contractor, subcontractor, bidder or individual may include any of the following:

- (1) Withholding of payment.
- (2) Termination, suspension or cancellation of the contract, in whole or in part.
- (3) Denial to participate in any contracts awarded by the city for a period of not more than three years.

(b) If the purchasing manager, purchasing/minority business enterprise dispute committee and city council determine, after written notice, that a contractor and/or minority business enterprise has made misrepresentations regarding the utilization of minority business enterprises, or has colluded with another making such misrepresentations or material omissions, the contractor or minority business enterprise, as the case may be, shall be recommended to be disqualified from contracting or subcontracting on future contracts for a period of not more than three years. Such persons or firms determined to have violated any sections of this article shall be subject to debarment for not more than three years under the cities purchasing procedures. The city shall maintain a list of such disqualified entities, which shall be available for public inspection. In the event that a contractor submitting a bid is determined not to have been involved in any misrepresentation of status of a disqualified subcontractor included in the bid, the city may allow the contractor to discharge the disqualified subcontractor and identify and engage a qualified subcontractor as its replacement for inclusion in the bid. The consequences provided herein shall be in addition to any other criminal or civil liability to which such entities may be subject. The appeal process shall follow the purchasing policies and procedures manual

EXHIBIT H

FLORIDA STATUTES ON PUBLIC ENTITY CRIMES

Public Entity Crime - Florida Statute 287.133 - Public entity crime; denial or revocation of the right to transact business with public entities. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a response on a contract to provide any goods, lease of property and/or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in s.287.017 for category two for a period of 36 months from the date of being placed on the convicted vendor list. Any person must notify the city within 30 days after a conviction of a public entity crime applicable to that person or to an affiliate of that person.

EXHIBIT I

INSERT

THE

CERTIFICATE OF INSURANCE

HERE

MANDATORY REQUIREMENTS OF CERTIFICATE:

1. THE CITY IS NAMED AS AN ADDITIONAL INSURED ON BOTH GENERAL AND AUTOMOBILE LIABILITY.

ALSO PROVIDE COPY OF "ADDITIONAL INSURED" ENDORSEMENT (YOUR AGENT WILL KNOW WHAT THIS IS).

2. THE PROJECT NAME AND NUMBER ARE IDENTIFIED ON THE INSURANCE CERTIFICATE IN THE DESCRIPTION OF OPERATIONS BLOCK.
3. **VERY IMPORTANT** - ARTICLE 13.03 IDENTIFIES THE POLICY LIMITS REQUIRED FOR EACH CATEGORY OF INSURANCE
4. THE NAME & ADDRESS OF YOUR COMPANY IS THE SAME AS SHOWN ON THIS AGREEMENT.
5. CERTIFICATE HOLDER BLOCK SHOULD CONTAIN:
CITY OF FORT MYERS
2600 DR. MARTIN LUTHER KING BLVD, SUITE 101
FT. MYERS, FL 33916



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

5/27/2015

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Herndon Carr & Company 10501 Six Mile Cypress Pkwy. Suite 101 Fort Myers FL 33966-6400		CONTACT NAME: Team I (CJK) PHONE (A/C No. Ext): (239) 939-1996 FAX (A/C No.): (239) 275-0277 E-MAIL ADDRESS: cecilia@herndoncarr.com	
INSURED Quattrone & Associates, Inc. 4301 Veronica Shoemaker Blvd. Fort Myers FL 33916		INSURER(S) AFFORDING COVERAGE INSURER A: Ohio Security Insurance Co. NAIC # 24082 INSURER B: Hartford Accident & Indemnity INSURER C: Liberty Insurance Underwriters Inc INSURER D: INSURER E: INSURER F:	

COVERAGES

CERTIFICATE NUMBER: Master 2015-2016

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY	X		BKS55090689	5/27/2015	5/27/2016	EACH OCCURRENCE \$ 1,000,000
	☐ CLAIMS-MADE ☒ OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000
							MED EXP (Any one person) \$ 15,000
							PERSONAL & ADV INJURY \$ 1,000,000
GEN'L AGGREGATE LIMIT APPLIES PER:							GENERAL AGGREGATE \$ 2,000,000
	☒ POLICY ☐ PRO-JECT ☐ LOC						PRODUCTS - COM/OP AGG \$ 2,000,000
	OTHER:						Owners or Lessees \$
A	AUTOMOBILE LIABILITY			BKS55090689	5/27/2015	5/27/2016	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
	☐ ANY AUTO		BODILY INJURY (Per person) \$				
	☐ ALL OWNED AUTOS	☐ SCHEDULED AUTOS	BODILY INJURY (Per accident) \$				
	☒ HIRED AUTOS	☒ NON-OWNED AUTOS	PROPERTY DAMAGE (Per accident) \$				
							\$
	UMBRELLA LIAB						EACH OCCURRENCE \$
	EXCESS LIAB						AGGREGATE \$
	DED RETENTION \$						\$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			21WECGF8009	11/11/2014	11/11/2015	PER STATUTE OTH-ER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	Y/N					E.L. EACH ACCIDENT \$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE \$ 1,000,000
							E.L. DISEASE - POLICY LIMIT \$ 1,000,000
C	Professional Liability			AEA100745-0003	4/24/2015	4/24/2016	Limit Per Aggregate \$1,000,000 Limit Per Claim \$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The City of Fort Myers is additional insured with regard to general liability per attached CG88100413. 10 day prio written notice of cancellation and/or restriction applies. (endorsement to follow)

Civil Engineering Services for the City of Fort Myers - Contining Contract, RFO#10-29-14-PW.

There are no owned automobiles in the corpportate name.

CERTIFICATE HOLDER

(239) 344-5935

City of Fort Myers
Purchasing & Contracts Department
2600 Dr. MLK Jr. Blvd.
Fort Myers, FL 33906

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Tom Carr/JULIE

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approved
by B. Fein
8/6/15



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

COMMERCIAL GENERAL LIABILITY EXTENSION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

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With respect to coverage afforded by this endorsement, the provisions of the policy apply unless modified by the endorsement.

A. NON-OWNED AIRCRAFT

Under Paragraph 2. Exclusions of Section I - Coverage A - Bodily Injury And Property Damage Liability, exclusion g. Aircraft, Auto Or Watercraft does not apply to an aircraft provided:

1. It is not owned by any insured;
2. It is hired, chartered or loaned with a trained paid crew;
3. The pilot in command holds a currently effective certificate, issued by the duly constituted authority of the United States of America or Canada, designating her or him a commercial or airline pilot; and
4. It is not being used to carry persons or property for a charge.

However, the insurance afforded by this provision does not apply if there is available to the insured other valid and collectible insurance, whether primary, excess (other than insurance written to apply specifically in excess of this policy), contingent or on any other basis, that would also apply to the loss covered under this provision.

B. NON-OWNED WATERCRAFT

Under Paragraph 2. Exclusions of Section I - Coverage A - Bodily Injury And Property Damage Liability, Subparagraph (2) of exclusion g. Aircraft, Auto Or Watercraft is replaced by the following:

This exclusion does not apply to:

- (2) A watercraft you do not own that is:
 - (a) Less than 52 feet long; and
 - (b) Not being used to carry persons or property for a charge.

C. PROPERTY DAMAGE LIABILITY - ELEVATORS

1. Under Paragraph 2. Exclusions of Section I - Coverage A - Bodily Injury And Property Damage Liability, Subparagraphs (3), (4) and (6) of exclusion j. Damage To Property do not apply if such "property damage" results from the use of elevators. For the purpose of this provision, elevators do not include vehicle lifts. Vehicle lifts are lifts or hoists used in automobile service or repair operations.
2. The following is added to Section IV - Commercial General Liability Conditions, Condition 4. Other Insurance, Paragraph b. Excess Insurance:

The insurance afforded by this provision of this endorsement is excess over any property insurance, whether primary, excess, contingent or on any other basis.

D. EXTENDED DAMAGE TO PROPERTY RENTED TO YOU (Tenant's Property Damage)

If Damage To Premises Rented To You is not otherwise excluded from this Coverage Part:

1. Under Paragraph 2. Exclusions of Section I - Coverage A - Bodily Injury and Property Damage Liability:

- a. The fourth from the last paragraph of exclusion j. Damage To Property is replaced by the following:

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" (other than damage by fire, lightning, explosion, smoke, or leakage from an automatic fire protection system) to:

- (i) Premises rented to you for a period of 7 or fewer consecutive days; or
- (ii) Contents that you rent or lease as part of a premises rental or lease agreement for a period of more than 7 days.

Paragraphs (1), (3) and (4) of this exclusion do not apply to "property damage" to contents of premises rented to you for a period of 7 or fewer consecutive days.

A separate limit of insurance applies to this coverage as described in Section III - Limits of Insurance.

- b. The last paragraph of subsection **2. Exclusions** is replaced by the following:

Exclusions c. through n. do not apply to damage by fire, lightning, explosion, smoke or leakage from automatic fire protection systems to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to Damage To Premises Rented To You as described in **Section III - Limits Of Insurance**.

2. Paragraph 6. under **Section III - Limits Of Insurance** is replaced by the following:

6. Subject to Paragraph 5. above, the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for damages because of "property damage" to:

- a. Any one premise:

- (1) While rented to you; or
- (2) While rented to you or temporarily occupied by you with permission of the owner for damage by fire, lightning, explosion, smoke or leakage from automatic protection systems; or

- b. Contents that you rent or lease as part of a premises rental or lease agreement.

3. As regards coverage provided by this provision **D. EXTENDED DAMAGE TO PROPERTY RENTED TO YOU (Tenant's Property Damage)** - Paragraph 9.a. of **Definitions** is replaced with the following:

- 9.a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire, lightning, explosion, smoke, or leakage from automatic fire protection systems to premises while rented to you or temporarily occupied by you with the permission of the owner, or for damage to contents of such premises that are included in your premises rental or lease agreement, is not an "insured contract".

E. MEDICAL PAYMENTS EXTENSION

If **Coverage C Medical Payments** is not otherwise excluded, the Medical Payments provided by this policy are amended as follows:

Under Paragraph 1. **Insuring Agreement** of **Section I - Coverage C - Medical Payments**, Subparagraph (b) of Paragraph a. is replaced by the following:

- (b) The expenses are incurred and reported within three years of the date of the accident; and

F. EXTENSION OF SUPPLEMENTARY PAYMENTS - COVERAGES A AND B

1. Under **Supplementary Payments - Coverages A and B**, Paragraph 1.b. is replaced by the following:

- b. Up to **\$3,000** for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.

2. Paragraph 1.d. is replaced by the following:

- d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to **\$500** a day because of time off from work.

G. ADDITIONAL INSURED - BY CONTRACT, AGREEMENT OR PERMIT

1. Paragraph 2. under **Section II - Who Is An Insured** is amended to include as an insured any person or organization whom you have agreed to add as an additional insured in a written contract, written agreement or permit. Such person or organization is an additional insured but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused in whole or in part by:

- a. Your acts or omissions, or the acts or omissions of those acting on your behalf, in the performance of your on going operations for the additional insured that are the subject of the written contract or written agreement provided that the "bodily injury" or "property damage" occurs, or the "personal and advertising injury" is committed, subsequent to the signing of such written contract or written agreement; or

- b. Premises or facilities rented by you or used by you; or
- c. The maintenance, operation or use by you of equipment rented or leased to you by such person or organization; or
- d. Operations performed by you or on your behalf for which the state or political subdivision has issued a permit subject to the following additional provisions:
 - (1) This insurance does not apply to "bodily injury", "property damage", or "personal and advertising injury" arising out of the operations performed for the state or political subdivision;
 - (2) This insurance does not apply to "bodily injury" or "property damage" included within the "completed operations hazard".
 - (3) Insurance applies to premises you own, rent, or control but only with respect to the following hazards:
 - (a) The existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoist away openings, sidewalk vaults, street banners, or decorations and similar exposures; or
 - (b) The construction, erection, or removal of elevators; or
 - (c) The ownership, maintenance, or use of any elevators covered by this insurance.

However:

- 1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
- 2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

With respect to Paragraph 1.a. above, a person's or organization's status as an additional insured under this endorsement ends when:

- (1) All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
- (2) That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

With respect to Paragraph 1.b. above, a person's or organization's status as an additional insured under this endorsement ends when their written contract or written agreement with you for such premises or facilities ends.

With respects to Paragraph 1.c. above, this insurance does not apply to any "occurrence" which takes place after the equipment rental or lease agreement has expired or you have returned such equipment to the lessor.

The insurance provided by this endorsement applies only if the written contract or written agreement is signed prior to the "bodily injury" or "property damage".

We have no duty to defend an additional insured under this endorsement until we receive written notice of a "suit" by the additional insured as required in Paragraph b. of Condition 2. **Duties In the Event Of Occurrence, Offense, Claim Or Suit under Section IV - Commercial General Liability Conditions.**

2. With respect to the insurance provided by this endorsement, the following are added to Paragraph 2. **Exclusions under Section I - Coverage A - Bodily Injury And Property Damage Liability:**

This insurance does not apply to:

- a. "Bodily injury" or "property damage" arising from the sole negligence of the additional insured.
- b. "Bodily injury" or "property damage" that occurs prior to you commencing operations at the location where such "bodily injury" or "property damage" occurs.
- c. "Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:
 - (1) The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - (2) Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of, or the failure to render, any professional architectural, engineering or surveying services.

- d. "Bodily injury" or "property damage" occurring after:

- (1) All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
- (2) That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

- e. Any person or organization specifically designated as an additional insured for ongoing operations by a separate **ADDITIONAL INSURED -OWNERS, LESSEES OR CONTRACTORS** endorsement issued by us and made a part of this policy.

3. With respect to the insurance afforded to these additional insureds, the following is added to **Section III - Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

- a. Required by the contract or agreement; or
- b. Available under the applicable Limits of Insurance shown in the Declarations; whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

H. PRIMARY AND NON-CONTRIBUTORY ADDITIONAL INSURED EXTENSION

This provision applies to any person or organization who qualifies as an additional insured under any form or endorsement under this policy.

Condition 4. Other Insurance of **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS** is amended as follows:

- a. The following is added to Paragraph a. **Primary Insurance:**

If an additional insured's policy has an Other Insurance provision making its policy excess, and you have agreed in a written contract or written agreement to provide the additional insured coverage on a primary and noncontributory basis, this policy shall be primary and we will not seek contribution from the additional insured's policy for damages we cover.

b. The following is added to Paragraph **b. Excess Insurance**:

When a written contract or written agreement, other than a premises lease, facilities rental contract or agreement, an equipment rental or lease contract or agreement, or permit issued by a state or political subdivision between you and an additional insured does not require this insurance to be primary or primary and non-contributory, this insurance is excess over any other insurance for which the additional insured is designated as a Named Insured.

Regardless of the written agreement between you and an additional insured, this insurance is excess over any other insurance whether primary, excess, contingent or on any other basis for which the additional insured has been added as an additional insured on other policies.

I. ADDITIONAL INSUREDS - EXTENDED PROTECTION OF YOUR "LIMITS OF INSURANCE"

This provision applies to any person or organization who qualifies as an additional insured under any form or endorsement under this policy.

1. The following is added to Condition **2. Duties In The Event Of Occurrence, Offense, Claim or Suit**:

An additional insured under this endorsement will as soon as practicable:

- a. Give written notice of an "occurrence" or an offense that may result in a claim or "suit" under this insurance to us;
- b. Tender the defense and indemnity of any claim or "suit" to all insurers whom also have insurance available to the additional insured; and
- c. Agree to make available any other insurance which the additional insured has for a loss we cover under this Coverage Part.
- d. We have no duty to defend or indemnify an additional insured under this endorsement until we receive written notice of a "suit" by the additional insured.

2. The limits of insurance applicable to the additional insured are those specified in a written contract or written agreement or the limits of insurance as stated in the Declarations of this policy and defined in **Section III - Limits of Insurance** of this policy, whichever are less. These limits are inclusive of and not in addition to the limits of insurance available under this policy.

**J. WHO IS AN INSURED - INCIDENTAL MEDICAL ERRORS / MALPRACTICE
WHO IS AN INSURED - FELLOW EMPLOYEE EXTENSION - MANAGEMENT EMPLOYEES**

Paragraph **2.a.(1)** of **Section II - Who Is An Insured** is replaced with the following:

(1) "Bodily injury" or "personal and advertising injury":

- (a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;
- (b) To the spouse, child, parent, brother or sister of that co-"employee" or "volunteer worker" as a consequence of Paragraph **(1) (a)** above;
- (c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs **(1) (a)** or **(b)** above; or
- (d) Arising out of his or her providing or failing to provide professional health care services. However, if you are not in the business of providing professional health care services or providing professional health care personnel to others, or if coverage for providing professional health care services is not otherwise excluded by separate endorsement, this provision (Paragraph **(d)**) does not apply.

Paragraphs **(a)** and **(b)** above do not apply to "bodily injury" or "personal and advertising injury" caused by an "employee" who is acting in a supervisory capacity for you. Supervisory capacity as used herein means the "employee's" job responsibilities assigned by you, includes the direct supervision of other "employees" of yours. However, none of these "employees" are insureds for "bodily injury" or "personal and

advertising injury" arising out of their willful conduct, which is defined as the purposeful or willful intent to cause "bodily injury" or "personal and advertising injury", or caused in whole or in part by their intoxication by liquor or controlled substances.

The coverage provided by provision J. is excess over any other valid and collectable insurance available to your "employee".

K. NEWLY FORMED OR ADDITIONALLY ACQUIRED ENTITIES

Paragraph 3. of **Section II - Who Is An Insured** is replaced by the following:

3. Any organization you newly acquire or form and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:
 - a. Coverage under this provision is afforded only until the expiration of the policy period in which the entity was acquired or formed by you;
 - b. Coverage A does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
 - c. Coverage B does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.
 - d. Records and descriptions of operations must be maintained by the first Named Insured.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations or qualifies as an insured under this provision.

L. FAILURE TO DISCLOSE HAZARDS AND PRIOR OCCURRENCES

Under **Section IV - Commercial General Liability Conditions**, the following is added to Condition 6. **Representations**:

Your failure to disclose all hazards or prior "occurrences" existing as of the inception date of the policy shall not prejudice the coverage afforded by this policy provided such failure to disclose all hazards or prior "occurrences" is not intentional.

M. KNOWLEDGE OF OCCURRENCE, OFFENSE, CLAIM OR SUIT

Under **Section IV - Commercial General Liability Conditions**, the following is added to Condition 2. **Duties In The Event of Occurrence, Offense, Claim Or Suit**:

Knowledge of an "occurrence", offense, claim or "suit" by an agent, servant or "employee" of any insured shall not in itself constitute knowledge of the insured unless an insured listed under Paragraph 1. of **Section II - Who Is An Insured** or a person who has been designated by them to receive reports of "occurrences", offenses, claims or "suits" shall have received such notice from the agent, servant or "employee".

N. LIBERALIZATION CLAUSE

If we revise this Commercial General Liability Extension Endorsement to provide more coverage without additional premium charge, your policy will automatically provide the coverage as of the day the revision is effective in your state.

O. BODILY INJURY REDEFINED

Under **Section V - Definitions**, Definition 3. is replaced by the following:

3. "Bodily Injury" means physical injury, sickness or disease sustained by a person. This includes mental anguish, mental injury, shock, fright or death that results from such physical injury, sickness or disease.

P. EXTENDED PROPERTY DAMAGE

Exclusion a. of **COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY** is replaced by the following:

a. Expected Or Intended Injury

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.

Q. WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US - WHEN REQUIRED IN A CONTRACT OR AGREEMENT WITH YOU

Under **Section IV - Commercial General Liability Conditions**, the following is added to Condition **8. Transfer Of Rights Of Recovery Against Others To Us**:

We waive any right of recovery we may have against a person or organization because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard" provided:

1. You and that person or organization have agreed in writing in a contract or agreement that you waive such rights against that person or organization; and
2. The injury or damage occurs subsequent to the execution of the written contract or written agreement.

PROFESSIONAL SERVICES AGREEMENT

Civil Engineering Services for the City of Fort Myers – Continuing Contract, RFQ #10-29-14-PW
Quattrone & Associates, Inc.

EXHIBIT J

EMPLOYMENT ELIGIBILITY VERIFICATION SYSTEM (E-VERIFY)

**INSERT THE
MEMO OF UNDERSTANDING (MOU)
HERE**



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THE E-VERIFY PROGRAM FOR EMPLOYMENT VERIFICATION MEMORANDUM OF UNDERSTANDING

ARTICLE I

PURPOSE AND AUTHORITY

This Memorandum of Understanding (MOU) sets forth the points of agreement between the Department of Homeland Security (DHS) and Quattrone and Associates, Inc. (Employer) regarding the Employer's participation in the Employment Eligibility Verification Program (E-Verify). This MOU explains certain features of the E-Verify program and enumerates specific responsibilities of DHS, the Social Security Administration (SSA), and the Employer. E-Verify is a program that electronically confirms an employee's eligibility to work in the United States after completion of the Employment Eligibility Verification Form (Form I-9). For covered government contractors, E-Verify is used to verify the employment eligibility of all newly hired employees and all existing employees assigned to Federal contracts.

Authority for the E-Verify program is found in Title IV, Subtitle A, of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. 104-208, 110 Stat. 3009, as amended (8 U.S.C. § 1324a note). Authority for use of the E-Verify program by Federal contractors and subcontractors covered by the terms of Subpart 22.18, "Employment Eligibility Verification", of the Federal Acquisition Regulation (FAR) (hereinafter referred to in this MOU as a "Federal contractor") to verify the employment eligibility of certain employees working on Federal contracts is also found in Subpart 22.18 and in Executive Order 12989, as amended.

ARTICLE II

FUNCTIONS TO BE PERFORMED

A. RESPONSIBILITIES OF SSA

1. SSA agrees to provide the Employer with available information that allows the Employer to confirm the accuracy of Social Security Numbers provided by all employees verified under this MOU and the employment authorization of U.S. citizens.
2. SSA agrees to provide to the Employer appropriate assistance with operational problems that may arise during the Employer's participation in the E-Verify program. SSA agrees to provide the Employer with names, titles, addresses, and telephone numbers of SSA representatives to be contacted during the E-Verify process.
3. SSA agrees to safeguard the information provided by the Employer through the E-Verify program procedures, and to limit access to such information, as is appropriate by law, to individuals responsible for the verification of Social Security Numbers and for evaluation of the E-Verify program or such other persons or entities who may be authorized by SSA as governed by the Privacy Act (5 U.S.C. § 552a), the Social Security Act (42 U.S.C. 1306(a)), and SSA regulations (20 CFR Part 401).



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4. SSA agrees to provide a means of automated verification that is designed (in conjunction with DHS's automated system if necessary) to provide confirmation or tentative nonconfirmation of U.S. citizens' employment eligibility within 3 Federal Government work days of the initial inquiry.

5. SSA agrees to provide a means of secondary verification (including updating SSA records as may be necessary) for employees who contest SSA tentative nonconfirmations that is designed to provide final confirmation or nonconfirmation of U.S. citizens' employment eligibility and accuracy of SSA records for both citizens and aliens within 10 Federal Government work days of the date of referral to SSA, unless SSA determines that more than 10 days may be necessary. In such cases, SSA will provide additional verification instructions.

B. RESPONSIBILITIES OF DHS

1. After SSA verifies the accuracy of SSA records for aliens through E-Verify, DHS agrees to provide the Employer access to selected data from DHS's database to enable the Employer to conduct, to the extent authorized by this MOU:

- Automated verification checks on alien employees by electronic means, and
- Photo verification checks (when available) on employees.

2. DHS agrees to provide to the Employer appropriate assistance with operational problems that may arise during the Employer's participation in the E-Verify program. DHS agrees to provide the Employer names, titles, addresses, and telephone numbers of DHS representatives to be contacted during the E-Verify process.

3. DHS agrees to provide to the Employer a manual (the E-Verify User Manual) containing instructions on E-Verify policies, procedures and requirements for both SSA and DHS, including restrictions on the use of E-Verify. DHS agrees to provide training materials on E-Verify.

4. DHS agrees to provide to the Employer a notice, which indicates the Employer's participation in the E-Verify program. DHS also agrees to provide to the Employer anti-discrimination notices issued by the Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC), Civil Rights Division, U.S. Department of Justice.

5. DHS agrees to issue the Employer a user identification number and password that permits the Employer to verify information provided by alien employees with DHS's database.

6. DHS agrees to safeguard the information provided to DHS by the Employer, and to limit access to such information to individuals responsible for the verification of alien employment eligibility and for evaluation of the E-Verify program, or to such other persons or entities as may be authorized by applicable law. Information will be used only to verify the accuracy of Social Security Numbers and employment eligibility, to enforce the Immigration and Nationality Act (INA) and Federal criminal laws, and to administer Federal contracting requirements.

7. DHS agrees to provide a means of automated verification that is designed (in conjunction with SSA verification procedures) to provide confirmation or tentative



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nonconfirmation of employees' employment eligibility within 3 Federal Government work days of the initial inquiry.

8. DHS agrees to provide a means of secondary verification (including updating DHS records as may be necessary) for employees who contest DHS tentative nonconfirmations and photo non-match tentative nonconfirmations that is designed to provide final confirmation or nonconfirmation of the employees' employment eligibility within 10 Federal Government work days of the date of referral to DHS, unless DHS determines that more than 10 days may be necessary. In such cases, DHS will provide additional verification instructions.

C. RESPONSIBILITIES OF THE EMPLOYER

1. The Employer agrees to display the notices supplied by DHS in a prominent place that is clearly visible to prospective employees and all employees who are to be verified through the system.

2. The Employer agrees to provide to the SSA and DHS the names, titles, addresses, and telephone numbers of the Employer representatives to be contacted regarding E-Verify.

3. The Employer agrees to become familiar with and comply with the most recent version of the E-Verify User Manual.

4. The Employer agrees that any Employer Representative who will perform employment verification queries will complete the E-Verify Tutorial before that individual initiates any queries.

A. The Employer agrees that all Employer representatives will take the refresher tutorials initiated by the E-Verify program as a condition of continued use of E-Verify, including any tutorials for Federal contractors if the Employer is a Federal contractor.

B. Failure to complete a refresher tutorial will prevent the Employer from continued use of the program.

5. The Employer agrees to comply with current Form I-9 procedures, with two exceptions:

- If an employee presents a "List B" identity document, the Employer agrees to only accept "List B" documents that contain a photo. (List B documents identified in 8 C.F.R. § 274a.2(b)(1)(B)) can be presented during the Form I-9 process to establish identity.) If an employee objects to the photo requirement for religious reasons, the Employer should contact E-Verify at 888-464-4218.
- If an employee presents a DHS Form I-551 (Permanent Resident Card) or Form I-766 (Employment Authorization Document) to complete the Form I-9, the Employer agrees to make a photocopy of the document and to retain the photocopy with the employee's Form I-9. The employer will use the photocopy to verify the photo and to assist DHS with its review of photo non-matches that are contested by employees. Note that employees retain the right to present any List A, or List B and List C, documentation to complete the Form I-9. DHS may in the future designate other documents that activate the photo screening tool.



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6. The Employer understands that participation in E-Verify does not exempt the Employer from the responsibility to complete, retain, and make available for inspection Forms I-9 that relate to its employees, or from other requirements of applicable regulations or laws, including the obligation to comply with the antidiscrimination requirements of section 274B of the INA with respect to Form I-9 procedures, except for the following modified requirements applicable by reason of the Employer's participation in E-Verify: (1) identity documents must have photos, as described in paragraph 5 above; (2) a rebuttable presumption is established that the Employer has not violated section 274A(a)(1)(A) of the Immigration and Nationality Act (INA) with respect to the hiring of any individual if it obtains confirmation of the identity and employment eligibility of the individual in compliance with the terms and conditions of E-Verify; (3) the Employer must notify DHS if it continues to employ any employee after receiving a final nonconfirmation, and is subject to a civil money penalty between \$550 and \$1,100 for each failure to notify DHS of continued employment following a final nonconfirmation; (4) the Employer is subject to a rebuttable presumption that it has knowingly employed an unauthorized alien in violation of section 274A(a)(1)(A) if the Employer continues to employ an employee after receiving a final nonconfirmation; and (5) no person or entity participating in E-Verify is civilly or criminally liable under any law for any action taken in good faith based on information provided through the confirmation system. DHS reserves the right to conduct Form I-9 compliance inspections during the course of E-Verify, as well as to conduct any other enforcement activity authorized by law.

7. The Employer agrees to initiate E-Verify verification procedures for new employees within 3 Employer business days after each employee has been hired (but after both sections 1 and 2 of the Form I-9 have been completed), and to complete as many (but only as many) steps of the E-Verify process as are necessary according to the E-Verify User Manual. The Employer is prohibited from initiating verification procedures before the employee has been hired and the Form I-9 completed. If the automated system to be queried is temporarily unavailable, the 3-day time period is extended until it is again operational in order to accommodate the Employer's attempting, in good faith, to make inquiries during the period of unavailability. In all cases, the Employer must use the SSA verification procedures first, and use DHS verification procedures and photo screening tool only after the SSA verification response has been given. Employers may initiate verification by notating the Form I-9 in circumstances where the employee has applied for a Social Security Number (SSN) from the SSA and is waiting to receive the SSN, provided that the Employer performs an E-Verify employment verification query using the employee's SSN as soon as the SSN becomes available.

8. The Employer agrees not to use E-Verify procedures for pre-employment screening of job applicants, in support of any unlawful employment practice, or for any other use not authorized by this MOU. Employers must use E-Verify for all new employees, unless an Employer is a Federal contractor that qualifies for the exceptions described in Article II.D.1.c. Except as provided in Article II.D, the Employer will not verify selectively and will not verify employees hired before the effective date of this MOU. The Employer understands that if the Employer uses E-Verify procedures for any purpose other than as authorized by this MOU, the Employer may be subject to appropriate legal action and termination of its access to SSA and DHS information pursuant to this MOU.

9. The Employer agrees to follow appropriate procedures (see Article III. below) regarding tentative nonconfirmations, including notifying employees of the finding, providing written referral instructions to employees, allowing employees to contest the finding, and not taking



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adverse action against employees if they choose to contest the finding. Further, when employees contest a tentative nonconfirmation based upon a photo non-match, the Employer is required to take affirmative steps (see Article III.B. below) to contact DHS with information necessary to resolve the challenge.

10. The Employer agrees not to take any adverse action against an employee based upon the employee's perceived employment eligibility status while SSA or DHS is processing the verification request unless the Employer obtains knowledge (as defined in 8 C.F.R. § 274a.1(l)) that the employee is not work authorized. The Employer understands that an initial inability of the SSA or DHS automated verification system to verify work authorization, a tentative nonconfirmation, a case in continuance (indicating the need for additional time for the government to resolve a case), or the finding of a photo non-match, does not establish, and should not be interpreted as evidence, that the employee is not work authorized. In any of the cases listed above, the employee must be provided a full and fair opportunity to contest the finding, and if he or she does so, the employee may not be terminated or suffer any adverse employment consequences based upon the employee's perceived employment eligibility status (including denying, reducing, or extending work hours, delaying or preventing training, requiring an employee to work in poorer conditions, refusing to assign the employee to a Federal contract or other assignment, or otherwise subjecting an employee to any assumption that he or she is unauthorized to work) until and unless secondary verification by SSA or DHS has been completed and a final nonconfirmation has been issued. If the employee does not choose to contest a tentative nonconfirmation or a photo non-match or if a secondary verification is completed and a final nonconfirmation is issued, then the Employer can find the employee is not work authorized and terminate the employee's employment. Employers or employees with questions about a final nonconfirmation may call E-Verify at 1-888-464-4218 or OSC at 1-800-255-8155 or 1-800-237-2515 (TDD).

11. The Employer agrees to comply with Title VII of the Civil Rights Act of 1964 and section 274B of the INA by not discriminating unlawfully against any individual in hiring, firing, or recruitment or referral practices because of his or her national origin or, in the case of a protected individual as defined in section 274B(a)(3) of the INA, because of his or her citizenship status. The Employer understands that such illegal practices can include selective verification or use of E-Verify except as provided in part D below, or discharging or refusing to hire employees because they appear or sound "foreign" or have received tentative nonconfirmations. The Employer further understands that any violation of the unfair immigration-related employment practices provisions in section 274B of the INA could subject the Employer to civil penalties, back pay awards, and other sanctions, and violations of Title VII could subject the Employer to back pay awards, compensatory and punitive damages. Violations of either section 274B of the INA or Title VII may also lead to the termination of its participation in E-Verify. If the Employer has any questions relating to the anti-discrimination provision, it should contact OSC at 1-800-255-8155 or 1-800-237-2515 (TDD).

12. The Employer agrees to record the case verification number on the employee's Form I-9 or to print the screen containing the case verification number and attach it to the employee's Form I-9.

13. The Employer agrees that it will use the information it receives from SSA or DHS pursuant to E-Verify and this MOU only to confirm the employment eligibility of employees as



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authorized by this MOU. The Employer agrees that it will safeguard this information, and means of access to it (such as PINS and passwords) to ensure that it is not used for any other purpose and as necessary to protect its confidentiality, including ensuring that it is not disseminated to any person other than employees of the Employer who are authorized to perform the Employer's responsibilities under this MOU, except for such dissemination as may be authorized in advance by SSA or DHS for legitimate purposes.

14. The Employer acknowledges that the information which it receives from SSA is governed by the Privacy Act (5 U.S.C. § 552a(i)(1) and (3)) and the Social Security Act (42 U.S.C. 1306(a)), and that any person who obtains this information under false pretenses or uses it for any purpose other than as provided for in this MOU may be subject to criminal penalties.

15. The Employer agrees to cooperate with DHS and SSA in their compliance monitoring and evaluation of E-Verify, including by permitting DHS and SSA, upon reasonable notice, to review Forms I-9 and other employment records and to interview it and its employees regarding the Employer's use of E-Verify, and to respond in a timely and accurate manner to DHS requests for information relating to their participation in E-Verify.

D. RESPONSIBILITIES OF FEDERAL CONTRACTORS

1. The Employer understands that if it is a Federal contractor subject to the employment verification terms in Subpart 22.18 of the FAR it must verify the employment eligibility of any "employee assigned to the contract" (as defined in FAR 22.1801) in addition to verifying the employment eligibility of all other employees required to be verified under the FAR. Once an employee has been verified through E-Verify by the Employer, the Employer may not reverify the employee through E-Verify.

a. Federal contractors not enrolled at the time of contract award: An Employer that is not enrolled in E-Verify as a Federal contractor at the time of a contract award must enroll as a Federal contractor in the E-Verify program within 30 calendar days of contract award and, within 90 days of enrollment, begin to use E-Verify to initiate verification of employment eligibility of new hires of the Employer who are working in the United States, whether or not assigned to the contract. Once the Employer begins verifying new hires, such verification of new hires must be initiated within 3 business days after the date of hire. Once enrolled in E-Verify as a Federal contractor, the Employer must initiate verification of employees assigned to the contract within 90 calendar days after the date of enrollment or within 30 days of an employee's assignment to the contract, whichever date is later.

b. Federal contractors already enrolled at the time of a contract award: Employers enrolled in E-Verify as a Federal contractor for 90 days or more at the time of a contract award must use E-Verify to initiate verification of employment eligibility for new hires of the Employer who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire. If the Employer is enrolled in E-Verify as a Federal contractor for 90 calendar days or less at the time of contract award, the Employer must, within 90 days of enrollment, begin to use E-Verify to initiate verification of new hires of the contractor who are working in the United States, whether or not assigned to the contract. Such verification of new hires must be initiated within 3 business days after the date of hire. An Employer enrolled as a Federal contractor in E-Verify must initiate verification of each employee assigned to the



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contract within 90 calendar days after date of contract award or within 30 days after assignment to the contract, whichever is later.

c. Institutions of higher education, State, local and tribal governments and sureties: Federal contractors that are institutions of higher education (as defined at 20 U.S.C. 1001(a)), State or local governments, governments of Federally recognized Indian tribes, or sureties performing under a takeover agreement entered into with a Federal agency pursuant to a performance bond may choose to only verify new and existing employees assigned to the Federal contract. Such Federal contractors may, however, elect to verify all new hires, and/or all existing employees hired after November 6, 1986. The provisions of Article II.D, paragraphs 1.a and 1.b of this MOU providing timeframes for initiating employment verification of employees assigned to a contract apply to such institutions of higher education, State, local and tribal governments, and sureties.

d. Verification of all employees: Upon enrollment, Employers who are Federal contractors may elect to verify employment eligibility of all existing employees working in the United States who were hired after November 6, 1986, instead of verifying only those employees assigned to a covered Federal contract. After enrollment, Employers must elect to do so only in the manner designated by DHS and initiate E-Verify verification of all existing employees within 180 days after the election.

e. Form I-9 procedures for Federal contractors: The Employer may use a previously completed Form I-9 as the basis for initiating E-Verify verification of an employee assigned to a contract as long as that Form I-9 is complete (including the SSN), complies with Article II.C.5, the employee's work authorization has not expired, and the Employer has reviewed the information reflected in the Form I-9 either in person or in communications with the employee to ensure that the employee's stated basis in section 1 of the Form I-9 for work authorization has not changed (including, but not limited to, a lawful permanent resident alien having become a naturalized U.S. citizen). If the Employer is unable to determine that the Form I-9 complies with Article II.C.5, if the employee's basis for work authorization as attested in section 1 has expired or changed, or if the Form I-9 contains no SSN or is otherwise incomplete, the Employer shall complete a new I-9 consistent with Article II.C.5, or update the previous I-9 to provide the necessary information. If section 1 of the Form I-9 is otherwise valid and up-to-date and the form otherwise complies with Article II.C.5, but reflects documentation (such as a U.S. passport or Form I-551) that expired subsequent to completion of the Form I-9, the Employer shall not require the production of additional documentation, or use the photo screening tool described in Article II.C.5, subject to any additional or superseding instructions that may be provided on this subject in the E-Verify User Manual. Nothing in this section shall be construed to require a second verification using E-Verify of any assigned employee who has previously been verified as a newly hired employee under this MOU, or to authorize verification of any existing employee by any Employer that is not a Federal contractor.

2. The Employer understands that if it is a Federal contractor, its compliance with this MOU is a performance requirement under the terms of the Federal contract or subcontract, and the Employer consents to the release of information relating to compliance with its verification responsibilities under this MOU to contracting officers or other officials authorized to review the Employer's compliance with Federal contracting requirements.



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ARTICLE III

REFERRAL OF INDIVIDUALS TO SSA AND DHS

A. REFERRAL TO SSA

1. If the Employer receives a tentative nonconfirmation issued by SSA, the Employer must print the tentative nonconfirmation notice as directed by the automated system and provide it to the employee so that the employee may determine whether he or she will contest the tentative nonconfirmation.
2. The Employer will refer employees to SSA field offices only as directed by the automated system based on a tentative nonconfirmation, and only after the Employer records the case verification number, reviews the input to detect any transaction errors, and determines that the employee contests the tentative nonconfirmation. The Employer will transmit the Social Security Number to SSA for verification again if this review indicates a need to do so. The Employer will determine whether the employee contests the tentative nonconfirmation as soon as possible after the Employer receives it.
3. If the employee contests an SSA tentative nonconfirmation, the Employer will provide the employee with a system-generated referral letter and instruct the employee to visit an SSA office within 8 Federal Government work days. SSA will electronically transmit the result of the referral to the Employer within 10 Federal Government work days of the referral unless it determines that more than 10 days is necessary. The Employer agrees to check the E-Verify system regularly for case updates.
4. The Employer agrees not to ask the employee to obtain a printout from the Social Security Number database (the Numident) or other written verification of the Social Security Number from the SSA.

B. REFERRAL TO DHS

1. If the Employer receives a tentative nonconfirmation issued by DHS, the Employer must print the tentative nonconfirmation notice as directed by the automated system and provide it to the employee so that the employee may determine whether he or she will contest the tentative nonconfirmation.
2. If the Employer finds a photo non-match for an employee who provides a document for which the automated system has transmitted a photo, the employer must print the photo non-match tentative nonconfirmation notice as directed by the automated system and provide it to the employee so that the employee may determine whether he or she will contest the finding.
3. The Employer agrees to refer individuals to DHS only when the employee chooses to contest a tentative nonconfirmation received from DHS automated verification process or when the Employer issues a tentative nonconfirmation based upon a photo non-match. The Employer will determine whether the employee contests the tentative nonconfirmation as soon as possible



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after the Employer receives it.

4. If the employee contests a tentative nonconfirmation issued by DHS, the Employer will provide the employee with a referral letter and instruct the employee to contact DHS through its toll-free hotline (as found on the referral letter) within 8 Federal Government work days.

5. If the employee contests a tentative nonconfirmation based upon a photo non-match, the Employer will provide the employee with a referral letter to DHS. DHS will electronically transmit the result of the referral to the Employer within 10 Federal Government work days of the referral unless it determines that more than 10 days is necessary. The Employer agrees to check the E-Verify system regularly for case updates.

6. The Employer agrees that if an employee contests a tentative nonconfirmation based upon a photo non-match, the Employer will send a copy of the employee's Form I-551 or Form I-766 to DHS for review by:

- Scanning and uploading the document, or
- Sending a photocopy of the document by an express mail account (furnished and paid for by DHS).

7. The Employer understands that if it cannot determine whether there is a photo match/non-match, the Employer is required to forward the employee's documentation to DHS by scanning and uploading, or by sending the document as described in the preceding paragraph, and resolving the case as specified by the Immigration Services Verifier at DHS who will determine the photo match or non-match.

ARTICLE IV

SERVICE PROVISIONS

SSA and DHS will not charge the Employer for verification services performed under this MOU. The Employer is responsible for providing equipment needed to make inquiries. To access the E-Verify System, an Employer will need a personal computer with Internet access.

ARTICLE V

PARTIES

A. This MOU is effective upon the signature of all parties, and shall continue in effect for as long as the SSA and DHS conduct the E-Verify program unless modified in writing by the mutual consent of all parties, or terminated by any party upon 30 days prior written notice to the others. Any and all system enhancements to the E-Verify program by DHS or SSA, including but not limited to the E-Verify checking against additional data sources and instituting new verification procedures, will be covered under this MOU and will not cause the need for a supplemental MOU that outlines these changes. DHS agrees to train employers on all changes made to E-Verify through the use of mandatory refresher tutorials and updates to the E-Verify User Manual. Even without changes to E-Verify, DHS reserves the right to require employers to take



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mandatory refresher tutorials. An Employer that is a Federal contractor may terminate this MOU when the Federal contract that requires its participation in E-Verify is terminated or completed. In such a circumstance, the Federal contractor must provide written notice to DHS. If an Employer that is a Federal contractor fails to provide such notice, that Employer will remain a participant in the E-Verify program, will remain bound by the terms of this MOU that apply to non-Federal contractor participants, and will be required to use the E-Verify procedures to verify the employment eligibility of all newly hired employees.

B. Notwithstanding Article V, part A of this MOU, DHS may terminate this MOU if deemed necessary because of the requirements of law or policy, or upon a determination by SSA or DHS that there has been a breach of system integrity or security by the Employer, or a failure on the part of the Employer to comply with established procedures or legal requirements. The Employer understands that if it is a Federal contractor, termination of this MOU by any party for any reason may negatively affect its performance of its contractual responsibilities.

C. Some or all SSA and DHS responsibilities under this MOU may be performed by contractor(s), and SSA and DHS may adjust verification responsibilities between each other as they may determine necessary. By separate agreement with DHS, SSA has agreed to perform its responsibilities as described in this MOU.

D. Nothing in this MOU is intended, or should be construed, to create any right or benefit, substantive or procedural, enforceable at law by any third party against the United States, its agencies, officers, or employees, or against the Employer, its agents, officers, or employees.

E. Each party shall be solely responsible for defending any claim or action against it arising out of or related to E-Verify or this MOU, whether civil or criminal, and for any liability wherefrom, including (but not limited to) any dispute between the Employer and any other person or entity regarding the applicability of Section 403(d) of IIRIRA to any action taken or allegedly taken by the Employer.

F. The Employer understands that the fact of its participation in E-Verify is not confidential information and may be disclosed as authorized or required by law and DHS or SSA policy, including but not limited to, Congressional oversight, E-Verify publicity and media inquiries, determinations of compliance with Federal contractual requirements, and responses to inquiries under the Freedom of Information Act (FOIA).

G. The foregoing constitutes the full agreement on this subject between DHS and the Employer.

H. The individuals whose signatures appear below represent that they are authorized to enter into this MOU on behalf of the Employer and DHS respectively.



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To be accepted as a participant in E-Verify, you should only sign the Employer's Section of the signature page. If you have any questions, contact E-Verify at 888-464-4218.

Employer Quattrone and Associates, Inc.

Al J. Quattrone

Name (Please Type or Print)

Title

Electronically Signed

Signature

02/24/2010

Date

Department of Homeland Security - Verification Division

USCIS Verification Division

Name (Please Type or Print)

Title

Electronically Signed

Signature

02/24/2010

Date



E-VERIFY IS A SERVICE OF DHS

Company ID Number: 306873

Information Required for the E-Verify Program

Information relating to your Company:

Company Name: Quattrone and Associates, Inc.

Company Facility Address: 4301 Veronica Shoemaker Blvd

Fort Myers, FL 33916

Company Alternate
Address:

County or Parish: LEE

Employer Identification

Number: 721522004

North American Industry
Classification Systems

Code: 541

Parent Company:

Number of Employees: 5 to 9

Number of Sites Verified

for: 1

Are you verifying for more than 1 site? If yes, please provide the number of sites verified for in each State:

- FLORIDA 1 site(s)



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Information relating to the Program Administrator(s) for your Company on policy questions or operational problems:

Name:	Mass Asheley	Fax Number:	(239) 936 - 7228
Telephone Number:	(239) 936 - 5222 ext. 113		
E-mail Address:	asheley@gainc.net		
Name:	Al J Quattrone	Fax Number:	(239) 936 - 7228
Telephone Number:	(239) 936 - 5222 ext. 106		
E-mail Address:	al@gainc.net		
Name:	Lisa E Quattrone	Fax Number:	(239) 936 - 7228
Telephone Number:	(239) 936 - 5222 ext. 102		
E-mail Address:	lisa@gainc.net		

State of Florida

Board of Professional Engineers

Attests that
Quattrone and Associates, Inc.



FBPE
FLORIDA BOARD OF
PROFESSIONAL ENGINEERS

is authorized under the provisions of Section 471.023, Florida Statutes, to offer engineering services to the public through a Professional Engineer, duly licensed under Chapter 471, Florida Statutes.

Expiration: 2/28/2017

Audit No: 228201701920

CA Lic. No:

9465

LEE COUNTY LOCAL BUSINESS TAX RECEIPT 2014 - 2015



ACCOUNT NUMBER: 0900745

ACCOUNT EXPIRES SEPTEMBER 30, 2015

Location

4301 VERONICA S SHOEMAKER BLVD
FT MYERS FL 33916

QUATTRONE AND ASSOCIATES INC
QUATTRONE AND ASSOCIATES INC
4301 VERONICA S SHOEMAKER BLVD
FT MYERS FL 33916

May engage in the business of:

ENGINEERING FIRM

THIS LOCAL BUSINESS TAX RECEIPT IS NON REGULATORY

THIS IS NOT A BILL - DO NOT PAY

PAID 019386-150-3

09/10/2014 08:33

DP500

\$30.00