

PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT is made as of this ____ day of _____, 2016, between the City of Coral Gables (hereinafter called the "City"), and _____ (hereinafter called the "Professional").

RECITALS

WHEREAS, the City desires to enter into an agreement with the Professional to develop a Citywide Bicycling Infrastructure Design (the "Project"); and

WHEREAS, the City having investigated the qualifications of the Professional to perform the services herein contemplated and found those qualifications satisfactory; and

WHEREAS, the Professional having examined the scope of the services required hereunder and having expressed desire and willingness to provide such services and having presented qualifications to the City in support of those expressed desires; and

WHEREAS, the Professional agrees to accept this Agreement upon the terms and conditions hereinafter set forth; and

NOW, THEREFORE, in consideration of the promises and the mutual covenants herein contained, the City agrees to retain the Professional for the development of a Citywide Bicycling Infrastructure Design.

I. GENERAL PROVISIONS

This Agreement incorporates and supersedes all previous agreements, written and oral, and all prior and contemporaneous communications between the parties, regarding this subject. The City reserves the right to initiate change to any provision of this Agreement. All such changes shall be accomplished only by mutually signed Amendments.

The Professional shall perform the services as specifically stated in the Request for Qualifications (RFQ), which is attached hereto and incorporated herein as Exhibit A; and further defined in the Coral Gables Citywide Bicycling Infrastructure Scope of Work; Phases and Tasks; Cost Summary; and Project Schedule, attached hereto and incorporated herein as Exhibit B, and as may be specifically designated and authorized by the City.

1.1 **Engagement.** The City agrees to engage the Professional for a period specified in paragraph 1.2, and the Professional agrees to accept such engagement and to perform such services for the City upon the terms, and subject to the conditions set forth herein.

1.2 **Agreement Period.** The terms of the Agreement (the "Professional Period") shall commence within ten (10) days of the execution date and shall continue thereafter pursuant to the Project Schedule in Exhibit B or until terminated by the City upon thirty (30) days written notice to the Professional, in accordance with the notice requirements contained in Section XIII. This period maybe extended upon mutual

agreement between the City and the Professional, for an additional one (1) year period, or until terminated by the City upon 30 days written notice to the Professional, in accordance with the notice requirements contained in Section XIII.

1.3 Duties and Responsibilities/Priority of Interpretation. The Code and any City resolutions take precedence over this agreement and its exhibits. This document without exhibits is referred to as the "Base Agreement." In the event of any conflict or inconsistency in the definition or interpretation of any word, responsibility, schedule, or the contents or description of any task, deliverable, service, or other work, or otherwise, between the Base Agreement and the exhibits, or between exhibits, such conflict or inconsistency shall be resolved by giving precedence first to the body of this Base Agreement, and then to the exhibits according to the following priority:

- a) City Resolution and applicable Code provisions;
- b) City Request for Qualifications (RFQ) (Exhibit A);
- c) Citywide Bicycling Infrastructure Design Scope of Work; Phases and Tasks; Cost Summary; and Schedule (Exhibit B);
- d) Professional's response to RFQ
- e) Insurance Certificates

During the Agreement Period, the Professional will serve as a Consultant to the City and will assist the City in the creation of a Citywide Bicycling Infrastructure, including evaluating recommendations identified in the Bicycle and Pedestrian Master Plan; Assessment and design of infrastructure improvements; Designing bicycling facilities, bicycle parking and on and off-street improvements; Surveying and geotechnical investigation; Design of Traffic signals, landscaping, and ADA compliant sidewalks; Community outreach and consensus building; Bicycling infrastructure branding; and all other requirements in accordance with the terms, conditions and specifications contained in and pursuant to the Request for Qualifications (RFQ) 2016.02.PK (Attached hereto).

1.4 Background Investigation. The Professional agrees that all employees including the Professional may be subject to an annual background investigation.

1.5 Polygraph Examination. The Professional agrees to submit to polygraph examinations at the request of the Director or designee.

1.6 Medical, Drug Screening and Check-ups. All Professionals, their employees, agents and sub consultants must satisfactorily complete the City's pre-placement medical and drug screening examinations and be certified as drug free as well as abide by the City's Drug Free Work Place Policy at Professional's expense. The City may require that the Professional and/or their employees, agents and sub consultants performing services for the City submit to a yearly medical and drug screen examination, at Professional's expense.

1.7 Drug Testing. The Professional agrees to submit to unannounced drug testing at the request of the Director or designee.

1.8 Driver's License. At City's option, the Professional must provide a valid Florida Driver's License or appropriate commercial driver's license for each employee, agent or sub consultant and be willing and able to operate any required vehicles as authorized by the City. Evidence of compliance with the Defensive Driving Course must

be submitted to the City prior to operating a City vehicle or any vehicle where patrons or children are passengers. Individuals must be approved by the Risk Management Division of the City prior to the operation of a City owned vehicle and/or privately owned vehicles while conducting City business. The City reserves the right to request the employee/agent's driving record from the State of Florida, at Professional's expense.

1.9 Confidential Information. The Professional agrees that any information received by the Professional for the City and in providing services in accordance with this Agreement which is not publicly available, shall not be revealed to any other persons, firm or organizations.

1.10 Most Favored Public Entity. The Professional represents that the prices charged to City in this Agreement do not exceed existing prices to other customers for the same or substantially similar items or services for comparable quantities under similar terms and conditions. If Professional's prices decline, or should Professional, at any time during the term of this Agreement, provide the same goods or services to any other customer at prices below those set forth herein, then such lower prices shall be immediately extended to the City.

II. PROFESSIONAL SERVICES

2.1 Basic Services. The duties and responsibilities are outlined in the RFQ.

2.2 Reporting. The Professional shall comply with the necessary reporting requirements as outlined by the Director or designee for review. In addition, the Professional shall submit a monthly report to the Director or designee, which shall include detailed information regarding the activities of the Professional during the previous month.

2.3 Availability of Professional. The Professional shall make all documents available 24 hours a day, 7 days a week, 365 days a year, in order to satisfy the City's emergency demands for continued, non-interrupted service.

III. COMPENSATION

3.1 Basic Compensation. In full consideration of the services of the Professional hereunder, the Professional shall be paid an amount not to exceed (Three Hundred Twenty-One Thousand Seven Hundred Sixty-Four Dollars and Twenty-Eight Cents) \$321,764.28 as outlined in the Scope of Work, Project Phases and Tasks, and Cost Summary here attached. The City reserves the right to contract with the Professional for additional services. Any increase in the agreed upon amount shall be approved by the Procurement Division or designee, and shall be in accordance with applicable City and State regulations.

3.2 Expenses. As part of, and in addition to the basic compensation described in this Agreement, the City shall provide the Professional with no additional compensation for any services performed in fulfilling the requirements of this Agreement. All additional requested expenses must be pre-approved through the Director or designee.

IV. INDEPENDENT CONTRACTOR AND PROFESSIONAL HOLD HARMLESS PROVISIONS

4.1 Independent Contractor and Professional. The Professional acknowledges entering into this Agreement as an independent Contractor and Professional, and that the Professional shall therefore be responsible for the deposit and payment of any Federal Income Taxes, FICA, Unemployment Taxes or any similar fees or taxes that become due, and shall be responsible for the collection and payment of all withholdings, contributions and payroll taxes relating to Professional's services, or those of employees of the Professional. The City shall not withhold from sums payable to the Professional, any amount whatsoever for Federal Income Taxes, FICA, Unemployment Insurance Taxes or any similar fees or taxes. The Professional, their employees or agents, will not be considered an employee of the City or entitled to participate in plans, distributions, arrangements or other benefits extended to City employees.

4.2 Agency. Nothing herein shall imply or shall be deemed to imply an agency relationship between the City and Professional.

4.2.1 Professional warrants that it fully complies with all Federal statutes and regulations regarding the employment of undocumented workers and others and that all employees performing work under this Agreement meet the citizenship or immigration status requirements set forth in Federal statutes and regulations. Professional shall indemnify, defend, and hold harmless City, its officers and employees from and against any sanctions and any other liability which may be assessed against Professional or City in connection with any alleged violation of any Federal statutes or regulations pertaining to the eligibility for employment of any persons performing work hereunder.

4.2.2 The employees and agents of each party, shall while on the premises of the other party, comply with all rules and regulations of the premises, including, but not limited to, security requirements.

4.2.3 Indemnification and Hold Harmless. To the fullest extent permitted by laws and regulations, the Professional shall defend, indemnify, and hold harmless the City, its elected and appointed officials, attorneys, administrators, consultants, agents, and employees from and against all claims, damages, losses, and expenses direct, indirect, or consequential (including but not limited to fees and charges of attorneys and other Professional's and court and arbitration costs) arising out of or resulting from the performance of the work and caused in whole or in part by either (i) any willful, intentional, reckless, or negligent act or omission of Professional, any sub consultant, or any person or organization directly or indirectly employed by any of them to perform or furnish any of the work or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder and regardless of the negligence of any such indemnified party, or (ii) any willful, intentional, reckless, or negligent act or omission of any individual or entity not a party to this agreement, or (iii) any negligent act or omission of the City or the City's officers, agents, or employees. The parties expressly agree that this provision shall be construed broadly, and Professional's obligations to pay for the City's legal defense hereunder shall arise and be fully enforceable when Professional (or any sub consultant or any person or organization directly or indirectly employed by Professional) is alleged to have acted willfully, intentionally, recklessly, or negligently in the performance of the work required under this Agreement. Any failure of Professional to comply with the terms of this

provision shall be deemed a material breach of this Agreement and may subject Professional to debarment from consideration for future award of city contracts pursuant to Section 2-952(4) of the City of Coral Gables Code of Ordinances. This provision shall survive termination of the Agreement.

4.2.4 In any and all claims against the City or any of its elected and appointed officials, consultants, agents, or employees by any employee of Professional, any sub consultant, any person or organization directly or indirectly employed by any of them to perform or furnish any of the work or anyone for whose acts any of them may be liable, the indemnification obligation under the above paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Professional or any such sub consultant or other person or organization under workers' or workman's compensation acts, disability benefit acts, or other employee benefit acts. Moreover, nothing in this Indemnification and Hold Harmless provision shall be considered to increase or otherwise waive any limits of liability, or to waive any immunity, established by Florida Statutes, case law, or any other source of law.

V. INSURANCE

5.1 Without limiting Professional's indemnification of the City, and during the term of this Agreement, Professional shall provide and maintain at its own expense the below described programs of insurance. Such programs and evidence of insurance shall be satisfactory to the City and shall be primary to and not contributing with any other insurance or self-insurance program maintained by the City. Certificates or other evidence of coverage shall be delivered to:

City of Coral Gables
Insurance Compliance
PO Box 12010 -CE
Hemet, CA 92546-8010

Such certificates or other evidence of coverage shall be delivered prior to commencing performance under this Agreement, and shall specifically identify this Agreement, and shall contain the express condition that the City is to be given advance written notice by receipted delivery at least thirty (30) days in advance of any cancellation, non-renewal or material change of the insurance policy.

5.2 The Professional shall maintain during the terms, except as noted, of this Agreement the following insurance:

a. **Professional Liability Insurance** with a limit of liability no less than \$1,000,000 per occurrence with a deductible per claim, if any, not to exceed 5% of the limit of liability providing for all sums which the Respondent shall become legally obligated to pay as damages for claims arising out of the services performed by the Respondent or any person employed, contracted and/or subcontracted in connection with this Agreement. This insurance shall be maintained for three (3) years after any work covered by this Agreement.

b. Comprehensive general liability insurance with broad form endorsement or equivalent, including automobile liability, completed operations and products liability, contractual liability, severability of interests with cross liability provision, and personal injury and property damage liability with limits no less than \$1,000,000 per occurrence for bodily injury and property damage, and \$2,000,000 in the aggregate. Said policy or

policies shall name City as additional insured on a primary and non-contributory basis and shall reflect the hold harmless provision contained herein.

c. Worker's Compensation Insurance for all employees of Professional as required by Florida Statutes Section 440, and employer's liability insurance with limits not less than, \$1,000,000

d. Automobile Liability insurance covering all owned, non-owned and hired vehicles used in connection with the performance of the work in an amount not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage.

e. Other (or increased amounts of) insurance which City shall from time to time deem advisable or appropriate. Such new or additional insurance to be effective as of the sooner of ninety (90) days after notice thereof or the next annual renewal of any policy being increased (as applicable).

f. All policies shall contain waiver of subrogation, except Professional Liability, against City where applicable, and shall expressly provide that such policy or policies are primary over any other collective insurance the City may have.

g. All of the above insurance is to be placed with insurance companies with an A.M. Best or equivalent rating of "A-", "VI" or better, qualified to do business under laws of the State of Florida.

h. The City shall be named as an additional insured on a primary and non-contributory basis for the General and Auto Liability Policies. Said policies shall contain a "severability of interest or "cross liability" clause without obligation for premium payment of the City. The City reserves the right to request a copy of required policies for review.

i. All insurance policies shall provide for thirty (30) days [ten (10) days for non-payment of premium] advance written notice to City prior to cancellation, non-renewal or material change.

j. The Professional shall furnish Certificates of Insurance to the Risk Management Division of the Human Resources Department prior to the commencement of operations or policy termination, which certificates shall clearly indicate that the City is named as and additional insured on a primary and non-contributory basis and that the Professional has obtained insurance in the type, amount and classification required for strict compliance with this Section and that no material change, cancellation or non-renewal of this insurance shall be effective without thirty (30) days advance written notice to the City.

5.3 Failure on the part of the Professional to obtain and maintain all required insurance coverage is a material breach upon which the City may, in its sole discretion, immediately suspend Professional's performance or terminate this Agreement.

VI. SOVEREIGN IMMUNITY

6. The Professional acknowledges that the Florida Doctrine of Sovereign Immunity bars all claims by Professional against the City other than claims arising out of this Agreement. Specifically, the Professional acknowledges that it cannot and will not assert any claims against the City, unless the claim is based upon a breach by the City

of this Agreement. The Professional acknowledges that this Agreement in no way estops or affects the CITY's exercise of its regulatory authority. In addition, the CITY retains the full extent of its sovereign immunity in relation to the exercise of its regulatory authority. The PROFESSIONAL acknowledges that it has no right and will not make claim based upon any of the following:

- a. Claims based upon any alleged breach by the CITY of implied warranties or representations not specifically set forth in this Agreement, as the parties stipulate that there are no such implied warranties or representations of the CITY. All obligations of the CITY are only as set forth in this Agreement;
- b. Claims based upon negligence or any tort arising out of this Agreement;
- c. Claims upon alleged acts or inaction by the City, its commissioners, attorneys, administrators, consultants, agents, or any CITY employee;
- d. Claims based upon an alleged waiver of any of the terms of this Agreement unless such waiver is in writing and signed by an authorized representative for the CITY and PROFESSIONAL.

VII. STANDARD OF CARE

7.1 The Professional shall exercise the same degree of care, skill, and diligence in the performance of the services as is ordinarily provided by a comparable Professional under similar circumstances and the Professional shall, at no additional cost to the City, re-perform services which fail to satisfy the foregoing standard of care.

7.2 The Professional warrants that all services shall be performed by skilled and competent personnel to the highest Professional standards in the field.

VIII. NON-DISCRIMINATION

8.1 EEO and ADA: The Professional must be and remain in compliance with all local, state and federal Equal Employment Opportunity (EEO) and American Disabilities Act (ADA) requirements.

8.2 It is understood that the Professional shall not discriminate against any employee in the performance of the contract with respect to hire, tenure, terms, conditions or privileges of employment, or any other matter directly or indirectly related to employment because of age, marital status, race, color, religion, national origin, sex, or disability.

8.3 City Policy Regarding Conduct. All Professionals, their employees, agents and sub consultants must abide by the City's policies regarding conduct. Discrimination, harassment, and/or violations of City policies will not be tolerated and are grounds for termination of the Agreement without harm to the City or its employees.

IX. CONFLICT OF INTEREST

9.1 The Professional represents that it has provided a list of all current clients subject to the jurisdiction of the City. Any potential or actual conflict between private interests and responsibilities under this Agreement shall be immediately disclosed to the City. The Professional agrees that it will not enter into any agreements during the term of this Agreement to provide services for any person or corporation who applies for a

permit or other development approval from the City. Upon request of the Professional, and full disclosure of the nature and extent of the proposed representation, the City Manager or his designee shall have the authority to authorize such representation during the term of this Agreement.

X. CONFIDENTIALITY

10.1 Subject to the requirements of Chapter 119 of the Florida Statutes, no reports, information, computer programs, documentation, and/or data given to or prepared or assembled by the Professional under this Agreement shall be made available to any individual or organization by the Professional without prior written approval of the City.

XI. OWNERSHIP OF DOCUMENTS

11.1 Any and all documents, records, disks, or other information shall become the property of the City for its use and/or distribution as may be deemed appropriate by the City.

XII. TRUTH-IN-NEGOTIATION CERTIFICATE

12.1 Execution of this Agreement by the Professional shall act as the execution of a truth-in-negotiation certificate certifying that the wage rates and costs used to determine the compensation provided for in this Agreement are accurate, complete, and current as of the date of the Agreement.

12.2 The said rates and costs shall be adjusted to exclude any significant sums should the City determine that the rates and costs were increased due to inaccurate, incomplete, or noncurrent wage rates or due to inaccurate representations of fees paid to outside consultants. The City shall exercise its rights under this "Certificate" within one (1) year following payment.

XIII. NOTICE

13.1 Any notice, request, instruction or other document required or permitted to be given hereunder by either party hereto to the other shall be in writing, and delivered personally, or sent by certified or registered mail, postage prepaid, return receipt requested, to the address set forth for such party at the bottom of this Agreement. Any notice so given shall be deemed received when personally delivered or three (3) business days after mailing. Any party may change the address to which notices are to be sent by giving notice of such change of address to the other party in the manner herein provided for giving notice. Notice as to the City of Coral Gables shall be to:

City Manager
City of Coral Gables
405 Biltmore Way
Coral Gables, FL 33134

c: City Attorney

Notice as to the Professional shall be to:

XIV. DEFAULT AND TERMINATION

14.1 The City may terminate this Agreement for convenience at any time by providing thirty (30) days written notice to the Professional. In the event of a termination for cause, due to the Professional's failure to perform in accordance with the terms of this Agreement or the Professional's repudiation of this Agreement by word or conduct, The City may immediately terminate the Agreement and the Professional shall be paid any sums otherwise due and owing under this Agreement only after City has completed the work called for by this Agreement with other forces, and has deducted the cost of such work, and any other damages payable to City, from any contract balance otherwise due and owing to the Professional under this Agreement. In the event of a termination for convenience, the Professional shall be paid for all services performed through the date of termination, based on the percentage of services completed (subject to applicable setoff rights) and the Professional shall not be entitled to any other compensation or damages from the City. If, after notice of termination for cause, it is determined for any reason that Professional was not in default, the rights and obligations of the City and the Professional shall be the same as though the termination had been a termination for convenience. In no event shall the City be liable to Professional for lost profits on any work not performed, overhead, or any other type of consequential, special or indirect damages, and Professional hereby waives the same. Professional may terminate this Agreement due to the City's failure to comply with the material terms of this Agreement after giving City thirty (30) days written notice of its purported default and a reasonable opportunity to cure. Upon termination of this Agreement, all schematics, designs, plans, specifications, documents, records, disks, or other information (including electronic copies) produced or developed by Professional or sub consultants, whether finished or not, shall become City property. Failure to timely deliver the documentation shall be cause to withhold any payments due, without recourse by the Professional, until all documentation is delivered to the City.

XV. UNCONTROLLABLE FORCES

15.1 Neither the City nor Professional shall be considered to be in default of this Agreement if delays in or failure of performance shall be due to Uncontrollable Forces, the effect of which, by the exercise of reasonable diligence, the nonperforming party could not avoid. The term "Uncontrollable Forces" shall mean any event which results in the prevention or delay of performance by a party of its obligations under this Agreement and which is beyond the reasonable control of the nonperforming party. It includes, but is not limited to, fire, flood, earthquake, storm, lightning, epidemic, war, riot, civil disturbance, sabotage, and governmental action.

15.2 Neither party shall, however, be excused from performance if nonperformance is due to forces which are preventable, removable, or remediable, and which the nonperforming party could have, with the exercise of reasonable diligence, prevented, removed, or remedied with reasonable dispatch. The nonperforming party shall, within a reasonable time of being prevented or delayed from performance by an uncontrollable force, give written notice to the other party describing the circumstances and uncontrollable forces preventing continued performance of the obligations of this Agreement.

XVI. MODIFICATION

16.1 This Agreement may not be amended or modified unless in writing and signed by both parties.

XVII. ASSIGNMENT AND SUBCONTRACTING

17.1 This Agreement and the rights of the Professional and obligations hereunder may not be assigned, delegated or subcontracted by the Professional without the express prior written consent of the City. Any assignment, delegation or subcontract without such express prior written consent shall be null and void and shall constitute a material breach of this Agreement, upon which the City may immediately terminate the Agreement in accordance with the provisions of paragraph 13.1 (Termination by Default). The City may assign its rights, together with its obligations hereunder.

XVIII. AUDITS

18.1 The Professional shall maintain accurate and complete financial records of its activities and operations relating to this Agreement in accordance with generally accepted accounting principles. Professional shall maintain adequate records to justify all charges and costs incurred in performing the services for at least three (3) years after completion of this Agreement. Professional shall also maintain accurate and complete employment and other records relating to its performance of this Agreement. Professional agrees that City, or its authorized representatives, shall have access to and the right to examine, audit, excerpt, copy or transcribe any pertinent transaction, activity, or records relating to this Agreement. All financial records, timecards and other employment records, and proprietary data and information shall be kept and maintained by Professional and made available to the City during the terms of this Agreement and for a period of three (3) years thereafter unless City's written permission is given to dispose of any such material prior to such time. All such materials shall be maintained by Professional at a location in Miami-Dade County, Florida, provided that if any such material is located outside Miami-Dade County, then, at City's option Professional shall pay City for travel, per diem, and other costs incurred by City to examine, audit, excerpt, copy or transcribe such material at such other location. The City shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal working business hours at the Professional's place of business.

In the event that an audit is conducted by Professional specifically regarding this Agreement by any Federal or State auditor, or by any auditor or accountant employed by Professional, then Professional shall file a copy of the audit report with the City's Auditor within thirty (30) days of Professional's receipt thereof, unless otherwise provided by applicable Federal or State law. City shall make a reasonable effort to maintain the confidentiality of such audit report(s).

Failure on the part of Professional to comply with the provisions of this Paragraph shall constitute a material breach upon which the City may terminate or suspend this Agreement.

18.2 City Audit Settlements. If, at any time during or after the term of this Agreement, representatives of the City conduct an audit of Professional regarding the work performed under this Agreement, and if such audit finds that City's dollar liability for any such work is less than payments made by City to Professional, then the difference

shall be either repaid by Professional to City by cash payment upon demand or, at the sole option of City, deducted from any amounts due to Professional from City. If such audit finds that City's dollar liability for such work is more than the payments made by City to Professional, then the difference shall be paid to Professional by cash payment.

XIX. AVAILABILITY OF FUNDS

19.1 The obligations of the City under this Agreement are subject to the availability of funds lawfully appropriated for its purpose by the City Commission.

XX. COMPLIANCE WITH LAWS

20.1 In performance of the services, the Professional will comply with applicable regulatory requirements, including federal, state, special district, and local laws, rules, regulations, orders, codes, criteria, and standards. It shall be the responsibility of the Professional to obtain and maintain, at no cost to the City, any and all license and permits required to complete the services provided pursuant to this Agreement.

20.2 Conflict of Interest. Professional covenants that no person employed by the Professional which exercises any functions or responsibilities in connection with this Agreement has any personal financial interests direct or indirect with the City. Professional further covenants that, in the performance of this Agreement, no person having a conflicting interest shall be employed. Any such interests on the part of Professional or its employees must be disclosed in writing to City.

20.3 Professional is aware of the conflict of interest code of the City of Coral Gables, the Conflict of Interest and Code of Ethics of Miami-Dade County, Florida, Section 2-11.1 et seq., and the Ethics Laws of the State of Florida, and agrees that it shall fully comply in all respects with the terms of said laws.

XXI. FEDERAL AND STATE TAXES

21.1 The City is exempt from Federal Tax and State Sales and Use Taxes. Upon request, the City will provide an exemption certificate to the Professional. The Professional shall not be exempted from paying sales tax to its suppliers for materials to fulfill the contractual obligations with the City, nor shall the Professional be authorized to use the City's Tax Exemption Number in securing such materials.

XXII. SUCCESSORS AND ASSIGNS

22.1 The City and the Professional each binds itself and its partners, successors, assigns, and legal representatives to the other party to this Agreement and to its partners, successors, executors, administrators, assigns, and legal representatives. The Professional shall not assign this Agreement without the express written approval of the City via executed amendment.

XXIII. CONTINGENT FEES

23.1 The Professional warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Professional, to solicit or secure this Agreement and that it has not paid or agreed to pay any person,

company, corporation, individual, or firm, other than a bona fide employee working solely for the Professional, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement.

XXIV. ENTIRETY OF AGREEMENT

24.1 The City and the Professional agree that this Agreement sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. This Agreement supersedes all prior agreements, contracts, proposals, representations, negotiations, letters, or other communications between the City and the Professional pertaining to the services, whether written or oral. None of the provisions, terms, and conditions contained in this Agreement may be added to, modified, superseded, or otherwise altered, except by written instrument executed by the parties hereto.

XXV. COUNTERPARTS

25.1 This Agreement may be executed simultaneously in several counterparts, each of which will be an original, but all of which together will constitute one and the same instrument.

XXVI. WAIVER

26.1 A waiver by either the City or the Professional of any breach of this Agreement shall not be binding upon the waiving party unless such waiver is in writing. In the event of a written waiver, such a waiver shall not affect the waiving party's rights with respect to any other or further breach. The making or acceptance of a payment by either party with knowledge of the existence of a default or breach shall not operate or be construed to operate as a waiver of any subsequent default or breach.

XXVII. SEVERABILITY, SURVIVAL

27.1 If any provision of this Agreement is found to be void and unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall nevertheless be binding upon the parties with the same effect as though the void or unenforceable provision had been severed and deleted.

XXVIII. GOVERNING LAW AND VENUE

28.1 The laws of the State of Florida shall govern this Agreement. Any and all legal action necessary to enforce the Agreement will be held in Miami-Dade County, and the Agreement will be interpreted according to the laws of Florida.

28.2 The invalidity, illegality, or unenforceability of any provision of this Agreement, or the occurrence of any event rendering any portion or provision of this Agreement void, shall in no way effect the validity or enforceability of any other portion or provision of the Agreement. Any void provision shall be deemed severed from the Agreement, and the balance of the Agreement shall be construed and enforced as if the Agreement did not contain the particular portion or provision held to be void. The parties further agree to reform the Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision.

28.3 The provisions of this section shall not prevent the entire Agreement from being void should a provision, which is of the essence of the Agreement, be determined to be void.

XXIX. TIME IS OF THE ESSENCE

29.1 Time is of the Essence. If any anticipated or actual delays arise, Professional shall immediately so notify the City. Regardless of notice if services or deliveries are not made at the time agreed upon, the City may, at its sole discretion, terminate this Agreement and proceed pursuant to Paragraph 13.1 (Termination by Default).

XXX. WAIVER OF TRIAL BY JURY

30.1 THE PARTIES TO THIS AGREEMENT HEREBY AGREE TO EXHAUST ALL ADMINISTRATIVE REMEDIES BEFORE FILING A LAWSUIT IN CIVIL COURT TO RESOLVE THE DISPUTE. CITY AND CONTRACTOR HEREBY KNOWINGLY, IRREVOCABLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHT EITHER MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY ACTION, PROCEEDING OR COUNTERCLAIM BASED UPON THE CONTRACT DOCUMENTS, OR ARISING OUT OF , UNDER, OR IN CONNECTION WITH, THE CONSTURCTION OF THE WORK, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN), OR ACTIONS OF ANY PARTY.

XXXI. FLORIDA PUBLIC RECORDS LAW FLORIDA STATUTES CHAPTER 119, et seq.

31.1 Records subject to the provisions of Public Record Law, Florida Statutes Chapter 119, shall be kept and maintained in accordance with such Statute. Supplier acknowledges that records and books, not subject to exemption under Chapter 119, may be disclosed and/or produced to third parties by the City in accordance with requests submitted under Chapter 119 or court orders without penalty or reprisal to the City for such disclosure and/or production. Supplier also agrees to assert, in good faith, any relevant exemptions provided for under Chapter 119 for records in its possession on behalf of the City. Furthermore, Supplier agrees to comply with the provisions outlined in Section 119.0701 of the Florida Statutes, the requirements of which are incorporated herein.

XXXII. MUTUAL WAIVER OF CONSEQUENTIAL DAMAGES

32.1 On behalf of themselves, their governing officers and employees, the parties waive all claims against each other for consequential losses or damages, and punitive damages, whether arising in contract, warranty, tort (including negligence), strict liability or otherwise including, but not limited to losses of use, excess construction costs, alternative methods, or losses of funding.

XXXIII. HEADINGS

33.1 The headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of the Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

Approved as to Insurance:

AS TO CITY:

David J. Ruiz
Risk Management Division

Catherine Swanson-Rivenbark
City Manager

Approved by Department Head
or head of negotiations team as to
the negotiated business terms

ATTEST:

Jessica A. Keller
Interim Public Works Director

Walter J. Foeman
City Clerk

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

Approved as to compliance with
Applicable Procurement Requirements:

Craig E. Leen
City Attorney

Michael P. Pounds,
Chief Procurement Officer

Approved as to Funds Appropriation:

Diana M. Gomez, Finance Director

ATTEST:

AS TO PROFESSIONAL

Corporate Secretary

President

Print Name: _____

Print Name: _____

(SEAL)

(OR)
WITNESSES (2):

Print Name: _____

Print Name: _____

EXHIBIT "B"

SCOPE OF WORK **City of Coral Gables** **Bicycle Infrastructure Design Services**

August 11, 2016

Prepared for:
City of Coral Gables
Department of Public Works

Prepared by:
Toole Design Group, LLC
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I. Consultant Requirements

This scope of work, developed as a part of the **Bicycle Infrastructure Design Services (RFQ 2016.02 PK)** describes the activities that will be performed by the Toole Design Group (TDG) Team to complete engineering services for bicycle facilities in the City of Coral Gables. For this task, the TDG Team will consist of the following consultants:

- | | |
|----------------------------------|---|
| • Toole Design Group, LLC, (TDG) | Project Management, Planning, Design, Landscape Architecture, Public Engagement, Traffic Analysis |
| • AECOM, Inc. (AECOM) | Planning, Design, Landscape Architecture, Public Relations, Inspection |
| • Dover, Kohl Partners (DKP) | Public Engagement, Planning, Design Analysis |
| • Leiter Perez Associates (LPA) | Surveying |
| • Nutting Engineers (NEF) | Geotechnical Services |

Project Limits – The project area encompasses the majority of the City of Coral Gables, following three specific corridors:

- Salzedo Street, University Drive and Riviera Drive
- Riviera Drive, Sevilla Street and Galliano Street
- Aragon Avenue Bicycle Boulevard

While these routes have been identified in the Request for Qualifications, final design will be based on projected success of each corridor, construction feasibility, municipal approval and public support. Additional bicycle routes may be developed as part of this on-call project including, but not limited to:

- An east-west bicycle boulevard north of Sevilla Avenue
- A bicycle route through northeast Coral Gables along Galliano Street

Approach to Bike Master Plan Implementation

The Coral Gables Bicycle/Pedestrian Plan was adopted in 2014 highlighting completed bicycle improvements and projecting where network connections can be made. The "Implementation Plan" (Page 90 of Bicycle/Pedestrian Plan) includes many routes which will establish a viable bicycle network in Coral Gables. Creating safe and attractive

bicycle facilities will enable more residents to choose cycling for transportation and recreation. Bicycle facilities should compliment Coral Gables' City Beautiful tradition and Mediterranean Revival architectural style.

For these reasons, the TDG Team proposes taking a modified approach to Bike Plan implementation in Coral Gables. While the main corridors for bicycle improvements have been identified, the TDG Team will consider parallel routes of equal lengths in the planning process. Parallel roads may have lower traffic volumes, lower traffic speeds or additional attributes that may create a better bicycle route.

Based upon a review of the Coral Gables Bicycle/Pedestrian Plan), the TDG Team recommends evaluating the proposed routes as follows:

Street	From	To	Parallel Route	Facility Type	Length (miles)
Riviera	Ingraham Pk	S Dixie Hwy	Maggiore	bike lanes	1.3
Riviera	S Dixie Hwy	Segovia	(none)	bike lanes	1.3
University	Granada	Salzedo	Granada	bike lanes	2.1
Salzedo	Coral Way	SW 8 th	Galliano	bike lanes/bike blvd	1.0
Alhambra	Lejeune Road	Salzedo Road	Aragon/Andalusia	Protected bike lanes	0.15
Aragon	Segovia	Merrick	Andalusia	bike blvd	0.75

Note: For any facility evaluated, TDG may recommend extending the facility to a location that is beyond the previously described limits of this project. As a result, the City may extend this project's general boundaries as is needed to implement cost-effective and operationally-sound bicycle facility improvements.

Standards, Specifications and Procedures – All proposed analysis will be in accordance with the City of Coral Gables, Miami/Dade County, Florida Department of Transportation, Manual on Uniform Traffic Control Devices (MUTCD), American Association of State Highway and Transportation Officials (AASHTO), Americans with Disabilities Act (ADA) and other guidelines, standards and specifications as appropriate. Any drawings will be prepared in imperial units using AutoCAD.

Task 1: Facility Feasibility Analysis & Concept Development

The TDG Team will perform a field review of the routes and facilities listed in the table above, meet with relevant city staff, and review planning documents to determine if any of these routes and facilities should be excluded or other routes included. Issues to consider include intended character of the roadway, future land uses, timing of adjacent

redevelopment projects, potential projects for implementing bicycle facilities, and other issues as appropriate.

The TDG Team will perform a field review of the facilities previously mentioned to identify potential deficiencies and determine the feasibility of implementing the proposed facility. The TDG Team will assess features such as:

1. prevalence and severity of pavement hazards within expected bicycling area (ruts, sharp drops, gaps, or potholes)
2. Presence of unsafe storm drainage grates within expected bicycling area
3. Absence of necessary curb ramps if bicyclists are directed to sidewalks or median refuges
4. Operational deficiencies at intersections (signal function, missing signs or pavement markings, stop control devices and proper assignment of ROW, potentially dangerous traffic patterns, sight distance issues, geometric issues, etc.)
5. Potential for addressing intersection deficiencies within the scope of this project.
6. Traffic characteristics.
7. Street geometrics suitability for bicycles.

A technical memorandum will be developed which evaluates the feasibility of facility implementation. The memorandum will address implementation phasing and requirements such as survey, environmental permitting, need for traffic analysis, and document any other deficiencies. The memorandum will include 15% design concepts for the corridors identified for improvements. Based on available survey, two concepts (2) per corridor will be provided and may include additional concepts at intersections. Parallel corridors evaluated will be included as one of the two (2) corridor concepts provided. The memorandum is to be reviewed with the client to determine severity of deficiencies, opportunity for correction, and the need to do further analysis prior to design.

Task 1 Deliverables:

1. Map of routes and facility types showing both those proposed for implementation by this project.
2. Technical Memorandum discussing concepts, prioritization, deficiencies and feasibility of facility implementation. Memorandum will include two concepts per corridor in the table on Page 2 of this scope.
3. Revised gross cost estimates for design and construction.

Meetings:

1. Project kick-off meeting by conference call (1)
2. Technical Memorandum Review Meeting by conference call (1)

Task 2: Public Engagement

Public input is critical to the success of the Coral Gables' Bicycle Infrastructure Design Services project. Providing opportunities for residents and stakeholders will increase community support for the improvements. Public input will also assist the TDG team with creating a bicycle network that will be used by those who are interested in

bicycling. The TDG Team will provide ample opportunities for community engagement to build a consensus on the concepts selected for further design. The TDG Team understands that total community support may not be achieved and requests the City of Coral Gables to assist in maintaining a schedule that will lead to construction in a timely manner.

The TDG Team will work closely with City of Coral Gables to develop a public outreach strategy that will engage residents throughout the planning, design and construction of bicycle facilities. A project advisory committee consisting of key stakeholders within the city government (such as council members, planning, parks, youth services, police, health and community development) will be asked for their input on development and implementation of the strategy. At a project scoping meeting they will be asked to provide background and pertinent information about the neighborhoods and infrastructure within the project area, as well as identify key challenges the projects are likely to face.

Meetings:

1. Internal Advisory Group Meetings (up to 3)
 - a. Meetings will be in person with conference call/webinar participation options
2. Large Public Meetings (up to 3)
 - a. Meetings will be scheduled at various times during a two week period to accommodate community schedules
 - b. Meetings will be approximately 2 hours each

Materials Preparation:

1. Preparation of maps, posters, handouts, sketches and graphics for distribution at meetings.
2. Preparation of communications for distribution by the city
3. Preparation of a website and documents for reference and distribution through the website.
4. Preparation of materials for release to print, radio, TV, web or other news and information media outlets.

Task 3: Design of Bicycle Facilities

Approximately 35,000 feet (~6.6 miles) of plans will be developed for this Task. Existing GIS data will be used as the base upon which plans will be drawn. This base will be supplemented, as necessary by visual inspection from Task 1. Additional survey needs will be requested under a separate contract. Plans will include improvements related to separated bicycle facilities, including but not limited to protected bicycle lanes, shared use pathways, bike lane signing, marking or other bicycle safety and operational needs, however they will not include a complete inventory of existing traffic and other roadside signs. Unless the facilities needed for bicycle accommodations need to be combined with pedestrian accommodations, designs will not include pedestrian treatments. The plan view drawings will be prepared in AutoCAD at 1" = 20' scale in shop drawing format. It is expected that the completed construction documents will consist of:

- Contract Provisions, Specifications, Standard Plans and Bid Forms
- General Notes and Details

- Up to 80 plan view plan sheets.

It is assumed that traffic control plans can be limited to notes and/or typical details covering the work area. It is assumed that all proposed improvements will be along locally owned and maintained roadways and traffic management plans may be needed for state roadways or intersections.

Task 3 Deliverables: 60% Submittal (one original and one electronic copy)
 90% Submittal (one original and one electronic copy)
 Final Plan Package (one original and one electronic copy)

Task 4: Design of Lighting and Improved Bicycle Access for Aragon Avenue (or parallel corridor)

Approximately 3,000 feet (~0.6 miles) of striping plans will be developed for this Task. Existing GIS data will be used as the base upon which striping plans will be drawn. This base will be supplemented, as necessary by visual inspection from Task 1. Striping plans will include signage related to bicycle striping, share the road situations, or other bicycle safety and operational needs, however they will not include a complete inventory of existing traffic and other roadside signs. Unless the facilities needed for bicycle accommodations need to be coordinated or combined with pedestrian accommodations, designs will not include pedestrian treatments. Preliminary lighting plans, which show the general layout, details, and quantities of all proposed street lights, and will prepare an illuminance model using AGi 32 lighting design software. The TDG Team will obtain photometric information for allowable light fixtures and luminaires from DPW or from the manufacturer, and will generate the illuminance model based on actual fixture and luminaire types to be used for the project. The illuminance point grid will be shown on the preliminary lighting plans. The plan view drawings will be prepared in AutoCAD at 1" = 20' scale in shop drawing format. It is expected that the completed construction documents will consist of:

- Contract Provisions, Specifications, Standard Plans and Bid Forms
- General Notes and Details
- Up to 5 plan view striping plan sheets
- Up to 5 plan view lighting plan sheets

It is assumed that traffic control plans can be limited to notes and/or typical details covering the work area. It is assumed that all proposed improvements will be along locally owned and maintained roadways and traffic management plans may be needed for state roadways or intersections.

Task 4 Deliverables: 60% Submittal (one original and one electronic copy)
 90% Submittal (one original and one electronic copy)
 Final Plan Package (one original and one electronic copy)

Assumptions:

The scope and fee proposal for Tasks 1 through 4 above are based on the following assumptions:

- The intent of this project is to create the best bicycle network possible which enables Coral Gables residents of all ages and abilities to safely use bicycles. The TDG Team will strive to provide quality, protected bicycle facilities on all routes, but may be inhibited through environmental constraints, lack of community support and design options that exceed allowed budget. Corridor selection and limits of work may be adjusted to focus the level of improvement on priority corridors.
- Physical modifications to roadways such as relocating curb lines, reconstructing curb ramps, drainage modifications, installing landscaping, streetscape, and hardscape features, etc. may require a more detailed engineering process, thus increasing the cost. The TDG Team will strive to design for increased bicycle traffic separation from motor vehicle traffic, but may be inhibited by budget constraints.
- This project will identify areas where electrical engineering will be needed with new lighting systems, but will be designed as a separate project(s) by others.
- Traffic signal modifications are not required.
- Traffic analysis and modeling are not required.
- The TDG Team is responsible for securing necessary permits although the City of Coral Gables will be responsible for any permit fees.

II. City of Coral Gables' Department of Public Works Requirements

The Department of Public Works, will do the following to facilitate implementation of this project:

1. Provide information and documents required by the consultants to complete the required tasks including, but not limited to:
 - a. Available topographic survey as a base for both concepts and design
 - b. Utility survey
 - c. Right-of-way survey
 - d. Municipal plans and drawings which may affect bicycle route corridors
 - e. Private development plans and drawings which may affect bicycle route corridors
 - f. Traffic data for along select corridors including volume, turning movements, crash data, bicycle and pedestrian data.
2. Provide contact information for representatives of the project advisory committee.
3. Provide for the prompt review and comment of materials prepared and submitted by the Consultant as indicated in the above scope of work.
4. Assist in developing public outreach strategy.
5. Provide three recent striping bids, three recent landscaping bids and three recent stormwater management bids for consultant's use in preparing a preliminary cost estimate.
6. Provide unit price lists from maintenance contracts should proposed improvements be included as maintenance contracts.

City of Coral Gables Citywide Bicycle Infrastructure Design Services

Toole Design Group

Task	Description	AECOM	Dover Kohl & Partners	TOTAL	Share of Labor Costs
Project Management		\$1,099,000	\$1,394,437	\$2,493,437	2.0%
Pj Mgmt	Kickoff Meeting	\$296.00	\$566.12	\$862.12	0.4%
Pj Mgmt	Bi-weekly coordination meetings, progress reports	\$3,800.00	\$818.80	\$4,618.80	1.6%
	Task 1 - Concept Development	\$1,146,000	\$1,528,250	\$2,674,250	1.9%
1	Task 1.1 - Comprehensive Review of Studies, Plans, and Reports	\$4,476.00	\$1,438.12	\$5,914.12	1.9%
1	Task 1.2 - Review of Policies and Future Projects	\$3,176.00	\$1,110.60	\$4,286.60	1.3%
1	Task 1.3 - Field inventory, field work, base input of existing field findings	\$2,000.00	\$6,806.48	\$8,806.48	2.8%
1	Task 1.4 - Concept Plan Development, Technical Memorandum	\$8,494.00	\$6,173.08	\$14,667.08	5.7%
2	Task 2 - Public and Stakeholder Engagement	\$9,084.80	\$2,695.00	\$11,779.80	8.3%
2	Task 2.1 - Public Charrettes (3)	\$4,010.00	\$818.80	\$4,828.80	3.6%
2	Task 2.2 - Focus Groups (2)	\$500.00	\$655.04	\$1,155.04	1.3%
2	Task 2.3 - Project Web Page Content Development	\$920.00	\$163.76	\$1,083.76	1.6%
2	Task 2.4 - Public Input Compilation	\$3,654.00	\$1,057.40	\$4,711.40	1.8%
	Task 3 - Bicycle Source Design	\$1,525,500	\$3,049,800	\$4,575,300	15.2%
3	Task 3.1 - Review field work and base input	\$1,880.00	\$0.00	\$1,880.00	0.6%
3	Task 3.2 - Develop 65% design plans and estimate	\$70,980.00	\$13,470.08	\$84,450.08	26.5%
3	Task 3.3 - QA/QC	\$16,416.00	\$4,449.20	\$20,865.20	7.5%
3	Task 3.4 - Design review meeting	\$1,092.00	\$327.52	\$1,419.52	0.4%
3	Task 3.5 - Develop 100% design plans, specifications and estimate	\$56,136.00	\$11,832.48	\$67,968.48	21.3%
3	Task 3.6 - Post-award and Construction Services	\$7,448.00	\$818.80	\$8,266.80	2.6%
	Task 4 - Aragon Avenue Source Design	\$4,164,000	\$0.00	\$4,164,000	13.2%
4	Task 4.1 - Field inventory, field work, base input of existing field findings	\$1,880.00	\$0.00	\$1,880.00	0.6%
4	Task 4.2 - Develop 65% design plans and estimate	\$31,768.00	\$0.00	\$31,768.00	10.0%
4	Task 4.3 - QA/QC	\$9,208.00	\$0.00	\$9,208.00	2.9%
4	Task 4.4 - Design review meeting	\$1,092.00	\$0.00	\$1,092.00	0.3%
4	Task 4.5 - Develop 100% design plans, specifications and estimate	\$11,768.00	\$0.00	\$11,768.00	3.7%
4	Task 4.6 - Post-award and Construction Services	\$5,448.00	\$0.00	\$5,448.00	1.7%
Total Labor Costs		\$246,442.00	\$50,506.28	\$296,948.28	100.0%
Expenses		\$2,250.00	\$308.00	\$2,558.00	0.0%
Total Cost		\$248,692.00	\$50,814.28	\$299,506.28	100.0%