

PROJECT AGREEMENT

Between

THE CITY OF SUNRISE

And

Brown & Caldwell

For

Project Agreement No. 11-012-BC

Sawgrass WWTP Aeration System Efficiency Improvements

Pursuant to the provisions contained in the Continuing Services Agreement between the City of Sunrise and Brown & Caldwell for General Professional Engineering Services (hereinafter referred to "CONTINUING SERVICES AGREEMENT") dated **October 28, 2010**, this Project Agreement authorizes the CONSULTANT to provide the services as set forth below:

The CITY and the CONSULTANT agree as follows:

SECTION 1 DEFINITIONS

1.1 **Change Order**: Change Order shall mean a written order to the CONSULTANT executed by the CITY, issued after execution of a Project Agreement or other agreement, authorizing and directing an addition, deletion or revision in the Work or an adjustment in the Contract Price or Contract Times, issued on the effective date of the Agreement.

1.2 **Contract Documents**: The Contract Documents establish the Rights and obligations of the parties and include the Agreement, Addenda (which pertain to the Contract Documents), Contractor's Bid (including documentation accompanying the Bid and any post Bid documentation submitted prior to the Notice of Award) when attached as an exhibit to the Agreement, the Notice to Proceed, the Bonds, these General Conditions, the Supplementary Conditions, the Specifications and the Drawings as the same are more specifically identified in the Agreement, together with all Written Amendments, Change Orders, Work Change Directives, Field Orders, and Engineer's written interpretations and clarifications issued on or after the Effective Date of the Agreement. Approved Shop Drawings and the reports and drawings of subsurface and physical conditions are not Contract Documents. Only printed or hard copies of the items listed in this paragraph are Contract Documents. Files in electronic format of text, data, graphics, and the like that may be furnished by the CITY, the CONSULTANT or the Engineer to the Contractor are not Contract Documents.

1.3 **Defective Work**: The word "Defective", when modifying the word "Work", refers to Work that is unsatisfactory, faulty, or deficient in that it does not conform to the Contract Documents or does not meet the requirements of any inspection, reference standard, test, or approval referred to in the Contract Documents, or has been damaged prior to Engineer's recommendation of final payment (unless responsibility for the protection thereof has been assumed by the CITY).

1.4 **Drawings**: That part of the Contract Documents prepared or approved by the CONSULTANT which graphically shows the scope, extent, and character of the Work to be performed by the Contractor. Shop Drawings and other Contractor submittals are not Drawings as so defined.

1.5 **Field Order**: A written order issued by the CONSULTANT which requires minor changes in the Work but which does not involve a change in the Contract Price or the Contract Times.

1.6 **Specifications**: That part of the Contract Documents consisting of written technical descriptions of materials, equipment, systems, standards, and workmanship as applied to the Work and certain administrative details applicable thereto.

1.7 **Subconsultant** An entity having a direct contract with the CONSULTANT or with any other Subconsultant for the performance of a part of the Work.

1.8 **Work**. The entire completed construction or the various separately identifiable parts thereof required to be provided under this Project Agreement. Work includes and is the result of performing or providing all labor, services, and documentation necessary to complete the Work, all as required by this Project Agreements.

SECTION 2 SCOPE OF SERVICES

2.1 The CONSULTANT shall provide engineering services to the CITY for the Project as described in the "Project Description" attached as **EXHIBIT "1"**.

2.2 The "Scope of Services" and tasks to be provided by the CONSULTANT for this Project are those services and tasks as listed in **EXHIBIT "2"**.

2.3 The CITY may request changes that would increase, decrease, or otherwise modify the Scope of Services. Such changes must be contained in a written change order executed by the parties in accordance with the provisions of the Continuing Services Agreement, prior to any deviation from the terms of the Project Agreement, including the initiation of any extra Work.

SECTION 3 DELIVERABLES

As part of the Scope of Services the CONSULTANT shall provide to the CITY the Deliverables as listed in **EXHIBIT "5"**.

SECTION 4 TERM / TIME OF PERFORMANCE / DAMAGES

4.1 **Term**. This Project Agreement shall commence on the date this instrument is fully executed by all parties and shall continue in full force and effect through **June 30, 2011** unless otherwise terminated pursuant to Section 7 or other applicable provisions of this Project Agreement. The CITY'S City Manager, in his sole discretion may extend the term of this Project Agreement through written notification to the CONSULTANT. Such extension shall not exceed one hundred eighty (180) days. No further extensions of this Project Agreement shall be effective unless authorized by the City Commission.

4.2 **Commencement**. The CONSULTANT'S services under this Project Agreement and the time frames applicable to this Project Agreement shall commence upon the date provided in a written

Notification of Commencement (“Commencement Date”) and receipt of a fully executed Purchase Order provided to the CONSULTANT from the CITY. The CONSULTANT shall not incur any expenses or obligations for payment to third parties prior to the issuance of the Notification of Commencement. The CONSULTANT must receive written notice from the CITY’S Director of Utilities or designee prior to beginning the performance of services in any subsequent phases of this Agreement. Prior to granting notice for the CONSULTANT to proceed to a subsequent phase, the CITY’S Director of Utilities or designee may, at its sole option, require the CONSULTANT to submit the itemized deliverables/documents identified in **EXHIBIT "5"** of this Agreement for the Director’s review.

4.3 **Contract Time.** Upon receipt of the Notification of Commencement and the fully executed Purchase Order, the CONSULTANT shall commence services to the CITY on the Commencement Date, and shall continuously perform services to the CITY, without interruption, in accordance with the time frames set forth in the “Project Schedule,” a copy of which is attached and incorporated into this Agreement as **EXHIBIT "3"**. The number of calendar days from the Commencement Date, through the date set forth in the Project Schedule for completion of the Project or the date of actual completion of the Project, whichever shall last occur, shall constitute the Contract Time.

4.4 **No Damages For Delay.** The CONSULTANT shall not be entitled to any claim for damages including, but not limited to, loss of profits, loss of use, home office overhead expenses, equipment rental and similar costs, on account of delays in the progress of the Project from any cause whatsoever including an act or neglect of the CITY, adverse weather conditions, an act of God, strike, war or national disaster or emergency, unusual delay in deliveries, unusual delay in procuring permits, differing site conditions, unavoidable casualties or other causes beyond the CONSULTANT’S control, or by delay authorized or caused by the CITY, or by other causes which the CONSULTANT determines may justify delay. The CONSULTANT’S sole remedy for any such delay shall be a reasonable extension of time and a revision to the Project Schedule as determined by the CITY. The CONSULTANT will not be entitled to damages for delay, howsoever caused. However, additional costs to the CONSULTANT or delays in the CONSULTANT’S performance caused by improperly timed activities shall not be the basis for granting a time extension. If the CONSULTANT wishes to make a claim for an increase in time of performance, written notice of such claim shall be made to the CITY within thirty (30) calendar days after the occurrence of the event, or the first appearance of the condition giving rise to such claim. The CITY’S representative, shall determine whether or not the CONSULTANT is entitled to a time extension for the delay. The failure of the CONSULTANT to give such notice shall constitute a waiver of any claim under this section.

4.5 Notwithstanding the provisions of Paragraph 4.5, in the event that the Contractor fails to substantially complete the Project on or before the substantial completion date specified in the Contract for Construction or the Contractor is granted an extension of the time to complete performance under the Contract for Construction, and the CONSULTANT’S contract administration services are materially extended by the CITY as a direct result thereof and through no fault of the CONSULTANT, the CONSULTANT shall be entitled to additional compensation at the rates shown in the Continuing Services Agreement **EXHIBIT "A"**, Salary Costs. The amount of compensation due by the CONSULTANT under this paragraph shall be pursuant to an approved Change Order.

4.6 All limitations of time set forth in this Agreement are of the essence.

SECTION 5 AMOUNT, BASIS AND METHOD OF COMPENSATION

5.1 The basis and method of compensation to the CONSULTANT for the services rendered pursuant to this Project Agreement shall be in conformance with **EXHIBIT "E"** of the Continuing Services Agreement.

5.2 **RESERVED**

5.3 **Lump Sum Compensation.** CITY agrees to pay CONSULTANT as compensation for performance of all services as related to the Project a Lump Sum of **\$ 56,900**. It is understood that the method of compensation is that of Lump Sum which means that CONSULTANT shall perform all services set forth for total compensation in the amount stated above. Said Lump Sum includes but is not limited to, compensation for all fees, expenses, and out-of-pocket costs of the CONSULTANT.

SECTION 6 BILLING AND PAYMENTS TO THE CONSULTANT

Billing and payments to the CONSULTANT shall be in accordance with **EXHIBIT "E"** of the Continuing Services Agreement and **EXHIBIT "4"** of this Agreement.

SECTION 7 TERMINATION / SUSPENSION

7.1 Termination shall be in accordance with Section 6 of the Continuing Services Agreement.

7.2 Suspension in accordance with Section 43 of the Continuing Services Agreement.

7.3 **Assignment Upon Termination.** Upon termination of this Project Agreement, the work product of the CONSULTANT shall become the property of the CITY and the CONSULTANT shall within ten (10) working days of receipt of written direction from the CITY, transfer to either the CITY or its authorized designee, all work product in its possession, including but not limited to, designs, specifications, drawings, studies, reports and all other documents and data in the possession of the CONSULTANT pertaining to this Project Agreement. Upon the CITY'S request, the CONSULTANT shall additionally assign its rights, title and interest under any subcontractor's agreements to the CITY. All Work product provided under this Section shall be used solely for its intended purpose.

SECTION 8 PERSONNEL ASSIGNED TO PROJECT

8.1 The CONSULTANT shall assign only qualified personnel to perform any services concerning this Project Agreement. At the time of execution of this Agreement, the parties anticipate that the following named individuals will perform those supervisory or primary functions indicated:

NAME	FUNCTION
Robert Ortiz	Company Officer
Bob Morrell	Senior Principal Professional
Bill Eleazer	Principal Professional
Jose Jimenez	Technical Expert

John Diedrich	Senior Principal Professional
Kaonis Palmer	Professional
Bob Hrabovsky	Principal Professional
Dilip Shah	Principal Professional
Butch Matthews	Senior Professional
Bob Forsythe	Senior Designer
Robert Todd	Designer
Jim Schettler	Technical Expert
Pete Schuler	Technical Expert
Roselyn Gardner	Administrative Assistant
Liz Oria	Administrative Assistant

So long as the individuals named above remain actively employed or retained by the CONSULTANT, they shall perform the functions indicated next to their names. Furthermore, the CITY reserves the right to reject any proposed substitution for any of the above named individuals, and the CITY shall have the further right to require that any individual assigned to the Project by the CONSULTANT be removed from the Project and reassigned for good cause.

SECTION 9 INCORPORATION OF CONTINUING SERVICES AGREEMENT

All terms and conditions of the "Continuing Service Agreement" between the CITY and the CONSULTANT dated, **October 28, 2010** not specifically modified by this Project Agreement shall remain in full force and effect and are incorporated into and made a part of this Project Agreement by this reference as though set forth in full.

SECTION 10 SEVERABILITY

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

SECTION 11 GOVERNING LAW

This Agreement shall be governed by the laws of the State of Florida. Should the Parties be involved in legal action against each other arising under, or connected to, this Agreement, each party will be responsible for their own attorney's fees and costs. The venue for any litigation will be Broward County, Florida. Both Parties hereby agree to waive a jury trial, and will proceed to a trial by judge if necessary.

[SPACE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature: The CITY, signing by and through its Mayor, attested to by its City Clerk, duly authorized to execute same and by Brown & Caldwell by and through its Vice President, duly authorized to execute same.

CITY

CITY OF SUNRISE, FLORIDA

By: _____
Mayor Michael J. Ryan
____ day of _____, 201__.

AUTHENTICATION:

Felicia M. Bravo
City Clerk

(SEAL) Seal

Approved as to form:

Stuart R. Michelson, City Attorney
City of Sunrise
10770 W. Oakland Park Blvd.
Sunrise, Florida 33351
Telephone: (954) 746-3300

By: _____
Stuart R. Michelson
City Attorney

CONSULTANT

Brown & Caldwell

By: _____

Bob Ortiz, P.E.
Client Service Manager

_____ day of _____, 201__.

AUTHENTICATE:

Secretary

Please type name of Secretary

(CORPORATE SEAL)

WITNESSES:

EXHIBIT "1"

TO

PROJECT AGREEMENT

Sawgrass WWTP Aeration System Efficiency Improvements

PROJECT DESCRIPTION

Aeration system efficiency improvements at the Sawgrass WWTP were identified in the City of Sunrise Water & Wastewater Master Plan. This project (Sawgrass WWTP Aeration System Efficiency Improvements) will address the need to improve efficiency of the aeration system at the Sawgrass WWTP with the goal of reducing power costs. The project will consist of a Study to determine if satisfactory efficiency gains can be realized by aeration system capital expenditures to provide a reasonable Return on Investment for the City of Sunrise.

This **Study** will evaluate potential improvements to the aeration system at the Sawgrass WWTP with the goal of reducing energy consumption and will specifically focus on several areas including the following:

1. Review of aeration system blower equipment to determine if modifications or replacement of equipment with higher efficiency equipment can reduce energy needs with a reasonable Return on Investment (ROI).
2. Review of aeration system diffusion scheme to determine if modifications or replacement of the equipment can reduce energy needs with a reasonable ROI.
3. Review of aeration system controls to determine if modifications in control schemes can increase efficiency with a reasonable ROI.

EXHIBIT "2"

TO

PROJECT AGREEMENT

Sawgrass WWTP Aeration System Efficiency Improvements

SCOPE OF SERVICES

SECTION 1 DESIGN SERVICES (To be Determined)

SECTION 2 BIDDING SERVICES (To be Determined)

SECTION 3 CONSTRUCTION CONTRACT ADMINISTRATION SERVICES (To be Determined)

SECTION 4 THE INSPECTION PROJECT REPRESENTATIVE (To be Determined)

SECTION 5 SPECIAL SERVICES OF THE CONSULTANT

If authorized in writing by the CITY, the CONSULTANT shall perform the following special services:

5.1 To be Determined

5.2 To be Determined

5.3 To be Determined

5.4 To be Determined

5.5 To be Determined

5.6 To be Determined

5.7 **Study Technical Memorandum.** The CONSULTANT shall perform and furnish to the CITY, as a Technical Memorandum entitled Study Technical Memorandum (STM), a written economic and technical evaluation of a limited number of areas as defined herein to evaluate if satisfactory efficiency gains in energy consumption can be realized to warrant capital expenditures for the Project. The STM shall determine if capital investments in the following areas will provide a reasonable Return on Investment (ROI):

- 1 Aeration system blower equipment replacement with higher efficiency equipment,
- 2 Aeration system diffusion equipment modifications and/or replacement of the equipment, and
- 3 Aeration system control equipment modifications.

The STM efforts shall include the following:

- 5.7.1 An analysis of data required for the project, to be provided by the CITY, shall be performed by the CONSULTANT. These data shall include existing: (a) influent flow and loading data for the latest available five year period, (b) inter-process existing plant wastewater flow and loading data for the latest available five year period, (c) effluent flow and loading data for the latest five year period, and (d) projected growth in flow at the plant over the next 20 year timeframe. Existing plant information including drawings (inclusive of plant electrical one-line diagrams) which can be used for the development of the sketches required for the project, O&M manuals and previously prepared reports related to the Project shall be provided by the CITY and shall be analyzed by the CONSULTANT.
- 5.7.2 For each of the three (3) areas studied, CONSULTANT shall develop a conceptual description of the proposed recommendations in sufficient detail for developing concept level cost estimates.
- 5.7.3 The CONSULTANT shall develop a concept level estimate of probable construction costs and life cycle costs for the three (3) areas to be analyzed and shall define the level of accuracy anticipated with these opinions.
- 5.7.4 Draft Study Technical Memorandum (STM) shall be prepared and reviewed with the CITY. The STM shall include summary information regarding the following:
 - 5.7.4.1 Conceptual design criteria used and background regarding the selection of the design criteria for the evaluation,
 - 5.7.4.2 Description of the three (3) areas studied,
 - 5.7.4.3 Sketches of the proposed concept with process flow diagrams indicating required demolition and new construction, conceptual area plans showing equipment demolition and new construction and one line diagram (to the 480V level) with associated required demolition as necessary,
 - 5.7.4.4 Description of the capital and life cycle cost analysis performed including limitations regarding its level of accuracy, and
 - 5.7.4.5 Recommendations resulting from the evaluations.
- 5.7.5 Final Study Technical Memorandum (STM) shall be prepared based on the CITY review of the draft documents
- 5.7.6 To coordinate and integrate the project, the following major meetings shall be held with the CITY:
 - 5.7.6.1 Preliminary Investigation Site Visit and Kickoff Meeting,
 - 5.7.6.2 Draft Technical Memorandum Review Meeting (held before submittal of Draft STM),
 - 5.7.6.3 Project Closeout Meeting

Meeting minutes for each meeting will be prepared and distributed by CONSULTANT in draft form within one week of the meeting for review by the CITY and issued as final one week following the draft submittal.

5.7.7 **Assumptions**

- 5.7.7.1 In order for CONSULTANT to meet the project schedule and budget, all review comments on all Technical Memoranda (TMs), reports and meeting minutes must be received by CONSULTANT within two weeks of submittal. Any additional comments beyond this time period may require a revision to the project schedule and budget.
- 5.7.7.2 Three study alternatives are identified as being analyzed. Any addition of alternatives or deviations from the alternatives identified may require a revision to the project schedule and budget.
- 5.7.7.3 Data, drawings and reports defined to be provided by the CITY shall be provided at the Kickoff Meeting. Delays in receipt of required data or information as noted herein to be provided by the CITY may require a revision to the project schedule and budget.
- 5.7.7.4 The Study Technical Memorandum is anticipated to consist of less than 20 pages (double sided) including required design sketches which shall be provided on 11x17 paper or 8.5x11 paper as appropriate.
- 5.7.7.5 If architectural, structural, HVAC, plumbing or fire system modifications are identified during the evaluation as being required for one or more of the alternatives, scope modification with additional project schedule and budget may be required to analyze these potential modifications.
- 5.7.7.6 Kick-off Meeting will be attended by the Project Manager, Lead Technical Engineer and Lead Process Engineer. Other meetings will be attended by the Lead Technical Engineer and others will attend as required via teleconference.

- 5.8 To be Determined
- 5.9 To be Determined
- 5.10 To be Determined
- 5.11 To be Determined
- 5.12 To be Determined
- 5.13 To be Determined
- 5.14 To be Determined
- 5.15 To be Determined

SECTION 6 SERVICE SCHEDULE

The CONSULTANT shall perform its services expeditiously. The CONSULTANT shall, when requested by the CITY, submit to the CITY for approval a schedule for the performance for the CONSULTANT's services which shall include allowance for time required for the CITY's review of submissions and for approvals of authorities have jurisdiction over the Project. The CITY shall review and approve or reject any schedules submitted by the CONSULTANT within 10 working days of said submittal. If, in the event that construction of the Project is suspended for more than thirty days, the CONSULTANT shall also suspend Construction Administration Services upon request of CITY. Any time spent on the Project at the request of the CITY or on the CITY's behalf during this suspension shall be additional services and shall be paid based on the Standard Hourly Rates attached to this contract. The reasonable term of construction upon which the fees for Construction Administration in this contract are based, shall be extended to include the period of construction suspension. This schedule, when approved by the CITY, shall not, except for cause, be exceeded by the CONSULTANT. In the event the CITY rejects any schedules submitted by the CONSULTANT, the CONSULTANT shall submit a revised schedule within two (2) business days of said rejection. Submission of a schedule acceptable to the CITY and to which the CITY makes no objection shall be a condition precedent for any payment to the CONSULTANT.

SECTION 7 MISCELLANEOUS SERVICES (To be Determined)

EXHIBIT "3"

TO

PROJECT AGREEMENT

Sawgrass WWTP Aeration System Efficiency Improvements

PROJECT SCHEDULE

Task/Description	Task/Completion In Weeks Following Authorization
Preliminary Investigation Site Visit and Kick-off Meeting	1
Existing Data, Drawing and Report Analysis	3
Development of Engineering Sketches	5
Construction and Life Cycle Cost Development	6
Draft STM Review Meeting	7
Draft STM to City	8
Final STM to City	12
Project Closeout Meeting	12

EXHIBIT "4"

TO

PROJECT AGREEMENT

Sawgrass WWTP Aeration System Efficiency Improvements

PAYMENT SCHEDULE

Task/Description	Percent of Total Fee	Lump Sum Fee
5.7.6 Kickoff Meeting Notes	9.7%	\$5,500
5.7.6 Draft TM Review Meeting Notes	27.1%	15,400
5.7.6 Project Closeout Meeting Notes	7.0%	\$4,000
5.7.4 Draft TM	43.9%	\$25,000
5.7.5 Final TM	12.3%	\$7,000
TOTAL	100%	\$56,900

EXHIBIT "5"

TO

PROJECT AGREEMENT

Sawgrass WWTP Aeration System Efficiency Improvements

DELIVERABLES

1. Draft Study Technical Memorandum (STM); Seven (7) hard copies, One (1) PDF and one (1) native on CD.
2. Final Study Technical Memorandum (STM); Seven (7) hard copies, One (1) PDF and one (1) native on CD.
3. Kickoff Meeting Notes; Seven (7) hard copies, One (1) PDF and one (1) native on CD
4. TM Review Meeting Notes; Seven (7) hard copies, One (1) PDF and one (1) native on CD
5. Project Closeout Meeting Notes; Seven (7) hard copies, One (1) PDF and one (1) native on CD