CITY CLERK
CITY OF SUNRISE
17 NOV 29 PM 2:00

SUNRISE, FLORIDA

RESOLUTION NO. 17-161

A RESOLUTION OF THE CITY OF SUNRISE, FLORIDA, AWARDING A "CONTINUING SERVICES AGREEMENT TO JOSEPH ROLES AND ASSOC., INC." FOR MISCELLANEOUS CIVIL ENGINEERING SERVICES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City requires the services of a qualified firm to provide miscellaneous civil engineering services for capital and developmental projects within the City; and

WHEREAS, on August 8, 2017 the City Commission approved Resolution No. 17-107 authorizing staff to negotiate three Continuing Services Agreements and hourly rates with the top three ranked firms resulting from RFP 17-03-01-MS; and

WHEREAS, staff met to negotiate with Joseph Roles and Assoc., Inc. for hourly rates for future projects. The agreed upon hourly rates are fair, reasonable and within industry standards.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF SUNRISE, FLORIDA:

Section 1. A "Continuing Services Agreement between the City of Sunrise and Joseph Roles and Assoc., Inc." for Miscellaneous Civil Engineering Services is hereby approved. A copy of the Continuing Services Agreement is attached hereto as Exhibit "A."

Section 2. The Mayor is hereby authorized to execute this Continuing Services Agreement.

Section 3. The City Manager, Utilities Director and Assistant Utilities Director are hereby authorized to negotiate Project Agreements and Letter Agreements within the scope and level of Section 2.3 of the Continuing Services Agreement. The person executing a Project Agreement or Letter Agreement shall provide the City Clerk a copy of the fully executed Project Agreement or Letter Agreement.

Section 4. The Procurement Manager or designee is hereby authorized to sign all Agreement renewals, and extensions to this Agreement. The Procurement Manager shall provide the City Clerk a copy of any executed renewals or extensions.

Section 5. Effective Date. This Resolution shall be effective immediately upon its passage.

PASSED AND ADOPTED THIS 14TH DAY OF NOVEMBER, 2017.

Mayor Michael J. Ryan

Authentication:

Felicia M. Bravo
City Clerk

CITY OF SUNRISE FLORIDA CORPORATE SEAL 1961 MUNICIPAL CORPORATION

MOTION:	KERCH
SECOND:	SCUOTTO
DOUGLAS:	YEA
KERCH:	YEA
SCUOTTO:	YEA
SOFIELD:	YEA
RYAN:	YEA

Approved by the City Attorney
as to Form and Legal Sufficiency.

Kimberly A. Kisslan

CITY CLERK
CITY OF SUNRISE

17 NOV 29 PM 2:00

CONTINUING SERVICES

AGREEMENT

Between

THE CITY OF SUNRISE

And

JOSEPH ROLES AND ASSOC., INC.

For

MISCELLANEOUS CIVIL ENGINEERING SERVICES

This Continuing Services Agreement (hereinafter referred to as the "Agreement") is made by and between the CITY OF SUNRISE, FLORIDA, a Florida municipal corporation, (hereinafter referred to as "City"), and **JOSEPH ROLES AND ASSOC., INC.**, a Florida corporation authorized to do business in the State of Florida (hereinafter referred to as "Consultant"), whose principal place of business is 7501 NW 4th Street, Suite 101, Plantation, Florida 33317.

WHEREAS, the City solicited proposals from qualified consultants on February 13, 2017, pursuant to the City Request for Qualifications ("RFQ") No. 17-03-01-MS, which RFQ is incorporated within this Agreement by reference and made a part hereof. Consultant submitted a Response to the RFQ dated March 15, 2017, which Response is incorporated within this Agreement by reference and made a part hereof (the "Response to RFQ"). Based upon the representations of Consultant in the Response to RFQ, which representations the City has relied upon, the City selected the Consultant to provide said Continuing Professional Civil Engineering Services for the City's Utilities Department; and

WHEREAS, the Consultant is willing and able to perform such professional services for the City within the basic terms and conditions set forth in this Agreement, the RFQ and the Response to RFQ; and

WHEREAS, the purpose of this Agreement is not to authorize a specific project, but to set forth the terms and conditions which shall be incorporated into subsequent supplemental agreements for specific projects or services when required;

NOW THEREFORE, in consideration of the mutual terms, conditions, promises, and covenants set forth below, the City and Consultant agree as follows:

SECTION 1 SCOPE OF SERVICES

1.1. The Consultant will provide comprehensive engineering services to the City's Utilities Department, as specified in EXHIBIT "A," Scope of Services. The City may, but is not required to, enter into a Project Agreement or Letter Agreement for any one or any combination of these Services.

1.2. The Consultant hereby represents to the City, with full knowledge that the City is relying upon these representations when entering into this Agreement with the Consultant, that the Consultant is duly licensed by the State of Florida and has the professional expertise, experience and manpower to perform the services to be provided by the Consultant in a manner consistent with the standard of care in the industry.

1.3. In accordance with the Consultant's Competitive Negotiations Act, the Consultant shall, at the request of the City, provide professional services to the City for additional projects in which construction costs do not exceed $2,000,000, and/or for study activities where fees do not exceed $200,000.

SECTION 2 AUTHORIZATION OF SERVICES

2.1 When the need for services for a specific project occurs, the City may, at its sole discretion, enter into negotiations with the Consultant for that specific project under the terms and conditions of this Agreement. The City shall initiate said negotiations by providing the Consultant with a Scope of Services Request (hereinafter referred to as the "Scope of Services Request"). The Consultant shall provide a proposal that shall conform to the requirements of Section 2.2 below.

2.2. The City and Consultant shall utilize a Project Agreement or a Letter Agreement for each specific project. The Project Agreement, a copy of which is attached to and incorporated into this Agreement as EXHIBIT "C" shall be utilized for all projects requiring design services and/or Construction Administration Services exceeding $25,000. For projects requiring design services equal to or less than $25,000 in value, a Letter Agreement shall be utilized, a copy of which is attached to and incorporated into this Agreement as EXHIBIT "F." Each Project Agreement or Letter Agreement will include but is not be limited to the following negotiated terms:

A The Scope of Services;
B. The deliverables (e.g. drawings, specifications, cost estimates, etc.);
C. The time and schedule of performance and term;
D. The method and amount of compensation;
E The personnel assigned to the specific project, including, but not limited to: Consultant's project manager, other staff and subconsultants, which the City shall have the right to reject in its sole discretion; and,
F. Any modifications to the Project Agreement or Letter Agreement form, if mutually agreed upon by the parties or as required to comply with grants the City has received.

2.3 The professional services to be rendered by the Consultant shall commence subsequent to the execution of each Project Agreement or Letter Agreement. City Staff shall negotiate and prepare Project Agreements for approval by the City Commission. The City Manager is authorized to negotiate and execute Letter Agreements for specific projects in which the Consultant's services do not exceed $25,000. The Utilities Director or Deputy Utilities Director is authorized to negotiate and execute Letter Agreements for projects in which the Consultant's services do not exceed $10,000. Consultant's Services shall be performed and completed as specified in the Project Agreement or Letter Agreement.

2.4 The City may, at its sole discretion, utilize the services of another consultant or solicit Requests for Qualifications for professional services for any project or services outlined in the RFQ and EXHIBIT "A" of this Agreement.

2.5 The City's Procurement Manager is authorized to sign all Agreement renewals, and extensions to this Agreement. Amendments to this Agreement shall be approved by Commission and amendments to Project Agreements and Letter Agreements shall be authorized in accordance with the dollar thresholds specified in Section 2.3.

SECTION 3 COMPENSATION AND PAYMENT

3.1 The City agrees to pay the Consultant compensation for the services provided for in this Agreement as outlined in EXHIBIT "B" Hourly Rates and EXHIBIT "E" Compensation and Method of Payment, which exhibits are attached to and incorporated in this Agreement. It is acknowledged and agreed to by Consultant that the dollar limitations set forth in each respective Project Agreement or Letter Agreement is a limitation upon, and describes the maximum extent of, City's obligation to reimburse Consultant for direct, non-salary expenses, but does not constitute a limitation upon Consultant's obligation to incur such expenses in the performance of services hereunder. If City requests Consultant to incur expenses not contemplated, Consultant shall notify the City's representative in writing and obtain their approval in writing prior to incurring such expenses. Nothing in this Agreement shall be construed to indicate that Consultant shall be obligated to perform services or to incur expenses that have not been authorized in writing by the City.

SECTION 4 TERM

4.1 This Agreement shall commence on the date this instrument is fully executed by all parties and shall end five (5) years from the executed date unless and until terminated pursuant to Section 6 of this Agreement. The City reserves the right to renew this Agreement for three (3) additional one-year periods under the same terms and conditions. The City will notify the Consultant of its intent to renew this Agreement in writing sixty (60) days prior to the expiration of this Agreement, or any extension thereof, of the City's intention. Each Project Agreement and Letter Agreement shall specify the term agreed to by the City and the Consultant for services to be rendered under said Project Agreement or Letter Agreement.

4.2 In the event the Services are scheduled to end either by this Agreement's expiration or by termination by the City (at the City's discretion), the Consultant shall continue to perform the agreed upon Services, if requested by the City, until a new agreement can be executed. At no time shall this transitional period extend more than one hundred eighty (180) days beyond the expiration date of the existing Agreement. The Consultant will be reimbursed for this service at the rate in effect when this transitional period clause is invoked by the City.

SECTION 5 TERMINATION

5.1 **Termination for Convenience**: This Agreement may be terminated by the City for convenience upon ten (10) calendar days' written notice to the Consultant. In the event of such termination, any Services performed by the Consultant under this Agreement shall, at the option of the City, become the City's property, and the Consultant shall be entitled to receive compensation for any Services completed pursuant to this Agreement to the

satisfaction of the City up to and through the date of termination. Under no circumstances shall City make payment for services that have not been performed. Additionally, the City shall not make payment for the following items:

5.1.1 Anticipated profits or fees to be earned on completed portions of the work;
5.1.2 Consequential damages;
5.1.3 Costs incurred in respect to services performed in excess of reasonable quantitative requirements of this Agreement and Project Agreement(s) or Letter Agreement(s);
5.1.4 Expenses of Consultant due to the failure of Consultant or its subconsultants to discontinue services after notice of termination has been given to the Consultant;
5.1.5 Losses upon other contracts or from sales or exchanges of capital assets or Internal Revenue Code Section 1231 assets; and
5.1.6 Damage or loss caused by delay.

5.2 **Termination for Cause:** This Agreement may be terminated by either party upon seven (7) calendar days' written notice to the other party should such other party fail substantially to perform in accordance with its material terms through no fault of the party initiating the termination. In the event the Consultant abandons this Agreement or causes it to be terminated by the City, the Consultant shall indemnify the City against any loss arising from its termination. In the event that the Consultant is terminated by the City for cause and it is subsequently determined by a court of competent jurisdiction that such termination was without cause, such termination shall thereupon be deemed a termination for convenience under Section 5.1 and the provisions of Section 5.1 shall govern.

5.3 **Termination for Governmental Non-Appropriations:** The City is a bona fide governmental entity of the State of Florida with a fiscal year ending on September 30 of each calendar year. If the City does not appropriate sufficient funds to purchase Services required under this Agreement for any of the City's fiscal years subsequent to the one in which the Agreement is executed and entered into, then this Agreement shall be terminated effective upon expiration of the fiscal year in which sufficient funds to continue to the satisfaction of the City's obligation under this Agreement were last appropriated by the City and the City shall not in this sole event be obligated to make any further purchases beyond said fiscal year.

SECTION 6 CITY'S RESPONSIBILITIES

6.1 Assist the Consultant by placing at its disposal all reasonably available information as may be requested in writing by the Consultant and allow reasonable access to all pertinent information relating to the services to be performed by the Consultant.

6.2 Furnish to the Consultant, at the Consultant's request, all existing studies, reports and other reasonably available data pertinent to the services to be provided by the Consultant.

6.3 Arrange for access to and make all reasonable provisions for the Consultant to enter upon City's public property as required for the Consultant to perform services.

6.4 In the event that Consultant believes that City is not reasonably complying with the requirements of Sections 6.1, 6.2 and 6.3 above, Consultant shall immediately provide written notice within three (3) days of such non-compliance to the City, absent which Consultant shall be deemed to have waived such non-compliance by City.

SECTION 7 CONSULTANT'S RESPONSIBILITIES

7.1 The Consultant shall comply with all laws, ordinances and governmental rules, regulations, and orders now or at any time during the term of this Agreement which as a matter of law are applicable to or which affect the procedures of the Consultant.

7.2 The obligation of the Consultant to comply with governmental requirements is provided for the purpose of assuring proper safeguards for the protection of persons and property.

7.3 The Consultant shall exercise the same degree of care, skill and diligence in the performance of the services as is ordinarily provided by a professional engineer under similar circumstances. If at any time during the term of any Project Agreement, Letter Agreement or the construction of the specific project for which the Consultant has provided engineering services under a prior Project Agreement or Letter Agreement, it is determined that the Consultant's documents are incorrect, defective or fail to conform to the scope of services, due to Consultant's negligent acts or failure to act, errors or omissions, upon written notification from the City, the Consultant shall immediately proceed to correct the work, re-perform services which fail to satisfy the foregoing standard of care as determined by the City, and Consultant shall pay all costs and expenses associated with correcting said incorrect or defective work, including any additional testing, inspections, and construction. The City's rights and remedies under this section are in addition to, and are cumulative of, any and all other rights and remedies provided by this Agreement, the Project Agreement, the Letter Agreement, by law, equity or otherwise.

7.4 The Consultant's obligations under Section 7.3 shall survive termination, cancellation, or expiration of this Agreement or any Project Agreement or Letter Agreement.

7.5 Any and all drawings, plans, specifications, or other construction or contract documents prepared by the Consultant shall be accurate, coordinated and adequate for construction and shall be in conformity and comply with all applicable law, codes, and regulations. Products, equipment, and material specified for use shall be readily available unless written authorization to the contrary is given by the City.

SECTION 8 POLICY OF NON-DISCRIMINATION

8.1 The Consultant shall comply with all federal, state and local laws and ordinances applicable to the work or payment for work and shall not discriminate on the grounds of race, color, national origin, sex, gender identity, sexual orientation, age, disability/handicap, religion, family or income status.

SECTION 9 CODE OF ETHICS

9.1 The Consultant and its employees shall be bound by the provisions of the City Code of Ethics provided in Sections 10-16 through 10-32 of the Code of the City of Sunrise, Florida, as may be amended from time to time, which standards shall by this reference be made a part of this Agreement as though set forth in full. The Consultant agrees to incorporate the provisions of this Section 9.1 into any subcontract.

SECTION 10 OWNERSHIP OF DOCUMENTS/DELIVERABLES

10.1 All subcontracts for the preparation of reports, studies, plans, drawings, specifications, or other data entered into by the Consultant for a project shall provide that all such documents and rights obtained by virtue of such subcontracts shall become the property of the City.

10.2 All finished or unfinished documents, including, but not limited to, detailed reports, studies, calculations, plans, drawings, surveys, maps, models, photographs, specifications, and all other data pertaining to or prepared for the City or furnished by the Consultant pursuant to this Agreement or any Project Agreement or Letter Agreement shall be and shall remain at all times, throughout the Project and thereafter, the property of the City, whether the project for which they are made is completed or not, and shall be delivered by the Consultant to City within ten (10) calendar days after receipt of written notice requesting delivery of said documents. The Consultant shall have the right to keep one record set of the documents upon completion of the work; however, in no event shall the Consultant use, or permit to be used, any of the documents without the City's prior written authorization. Any reuse of such documents by the City without the written verification or adaptation by the Consultant for the specific purpose intended will be at the City's sole risk.

10.3 At the conclusion of its work and before final payment, or from time to time as may be required by the City, the Consultant shall release and deliver to the City any and all such originals; provided, however, that the Consultant may, with the City's approval, reproduce such originals for the purpose of the Consultant's record file of the work. The Consultant shall not sell, copy, or reuse any drawings in total or in part for any other project, except with the prior written permission of the City.

10.4 All final plans and documents prepared by the Consultant shall bear the endorsement and seal of a person duly registered as an engineer, as appropriate, in the State of Florida.

SECTION 11 RECORDS/AUDITS

11.1 Consultant shall maintain and shall require its subconsultants to maintain complete and correct records, books, documents, papers and accounts pertaining to work performed in connection with this Agreement including without limitation, reasonable substantiation of all expenses incurred based on actual costs and of all property acquired or disposed of hereunder. Such records, books, documents, papers and accounts shall be available at all reasonable times for examination and audit by the City or any authorized City representative with reasonable notice and shall be kept for a period of three (3) years after the completion of each project to be performed pursuant to this Agreement. Incomplete or incorrect entries in such records, books, documents, papers or accounts will be grounds for disallowance by or reimbursement to the City of any fees or expenses based upon such entries. The Consultant shall remit promptly to the City the amount of any adjustment resulting from audit.

11.2 Refusal of the Consultant to comply with the provisions in this Section shall be grounds for immediate termination for cause by the City of this Agreement or any Project Agreement or Letter Agreement.

SECTION 12 NO CONTINGENT FEE

12.1 The Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Consultant, to solicit or secure this 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 Consultant, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. In the event the Consultant violates this provision, the City shall have the right to terminate this Agreement or any Project Agreement or Letter Agreement, without liability, and at its sole discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration.

SECTION 13 INDEPENDENT CONTRACTOR

13.1 The Consultant is an independent contractor under this Agreement. Personal services provided by the Consultant shall be by employees or subcontractors of the Consultant who shall be subject to supervision by the Consultant, and who shall not be deemed officers, employees, or agents of the City. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to Services rendered under this Agreement shall be those of the Consultant and not City.

SECTION 14 INDEMNIFICATION/HOLD HARMLESS

14.1 To the fullest extent permitted by law, the Consultant agrees to indemnify and hold-harmless the City, 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 intentional wrongful conduct of the Consultant or persons employed or utilized by the Consultant in performance of this Agreement. This indemnification shall survive the term of this Agreement

14.2 PURSUANT TO FLORIDA STATUTES §558.0035, A DESIGN PROFESSIONAL EMPLOYED BY CONSULTANT MAY NOT BE HELD INDIVIDUALLY LIABLE FOR DAMAGES RESULTING FROM NEGLIGENCE OCCURING WITIN THE SCOPE AND OF PROFESSIONAL SERVICES UNDER THIS AGREEMENT.

SECTION 15 INSURANCE

15.1 Consultant agrees to maintain, on a primary non-contributory basis and at its sole expense, at all times during the life of this Agreement, the following insurance coverages, limits, including endorsements described herein. The requirements contained herein, as well as City's review or acceptance of insurance maintained by Consultant is not intended to and shall not in any manner limit or qualify the liabilities or obligations assumed by Consultant under this Agreement.

15.1.1 Commercial General Liability: Consultant agrees to maintain Commercial General Liability at a limit of liability not less than **$1,000,000** each occurrence, **$2,000,000** annual aggregate. Coverage shall not contain any endorsement(s) excluding nor limiting Product/Completed Operations, Contractual Liability or Separation of Insureds .

15.1.2 Worker's Compensation Insurance & Employers Liability: Consultant agrees to maintain Worker's Compensation Insurance & Employers Liability in accordance with Florida Statute, Chapter 440.

15.1.3 Professional Liability: Consultant agrees to maintain Professional (Errors & Omissions) Liability at a limit of liability not less than **$1,000,000** per claim, **$1,000,000** annual aggregate, or a **$1,000,000** combined single limit. When a self-insured retention (SIR) or deductible exceeds **$25,000**, the City reserves the right, but not the obligation, to review and request a copy of the Consultant's most recent annual report or audited financial statement. For policies written on a "Claims-Made" basis, Consultant agrees to maintain a retroactive date prior to or equal to the effective date of any resulting contract. In the event the policy is cancelled, non-renewed, switched to an Occurrence Form, retroactive date advanced, or any other event triggering the right to purchase a Supplemental Extended Reporting Period (SERP) during the life of any resulting contract, Consultant agrees to purchase a SERP with a minimum reporting period not less than **two (2)** years. The requirement to purchase a SERP shall not relieve Consultant of the obligation to provide replacement coverage.

15.1.4 Additional Insured: The Consultant agrees to endorse the City as an Additional Insured on the Commercial General Liability with the following, or similar endorsement providing equal or broader Additional Insured coverage, the CG 20 26 07 04 or GC 20 26 04 13 Additional Insured – Designated Person or Organization endorsements; or the CG 20 10 07 04 or GC 20 10 04 13 Additional Insured – Owners, Lessees, or Contractors endorsements in combination with the additional endorsement GC 20 37 07 04 or GC 20 04 13 Additional Insured – Owners, Lessees, or Contractors – Completed Operations shall be required to provide back coverage for the contractor's "your work" as defined in the policy and liability arising out of the products-completed operations hazard. The Additional Insured shall read "City of Sunrise."

15.1.5 Waiver of Subrogation: Consultant agrees to provide a Waiver of Subrogation for each required policy herein. When required by the insurer, or should a policy condition not permit Consultant to enter into an pre-loss agreement to waive subrogation without an endorsement, then Consultant agrees to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which includes a condition specifically prohibiting such an endorsement, or voids coverage should Consultant enter into such an agreement on a pre-loss basis.

15.1.6 Certificate(s) of Insurance: Consultant agrees to provide City a Certificate of Insurance evidencing that all coverages, limits and endorsements required herein are maintained and in full force and effect, and Certificates of Insurance shall provide a minimum thirty (30) day endeavor to notify City of a non-renewal or cancellation notice, when available by Consultant's insurer. If the Consultant receives a non-renewal or cancellation notice from an insurance carrier affording coverage required herein, or receives notice that coverage no longer complies with the insurance requirements herein, Consultant agrees to notify the City by fax and email as set forth in this Section within five (5) business days with a copy of the non-renewal or cancellation notice, or written specifics as to which coverage is no longer in compliance

The certificate holder address shall read:

City of Sunrise
Attn: Risk Manager
City of Sunrise
10770 W. Oakland Park Boulevard, 3rd Floor
Sunrise, FL 33351
Fax: (954) 572-2278
Email: riskmanagement@sunrisefl.gov

15.1.9 Right to Revise or Reject: City reserves the right, but not the obligation, to revise any insurance requirement, not limited to limits, coverages and endorsements, or to reject any insurance policies that fail to meet the criteria stated herein. Additionally, City reserves the right, but not the obligation, to review and reject any insurer providing coverage due of its poor financial condition or failure to operating legally.

SECTION 16 REPRESENTATIVE OF CITY AND CONSULTANT

16.1 City Representative. It is recognized that questions in the day-to-day conduct of this Agreement will arise. The City designates the City's Capital Projects Director, unless designated otherwise by the City Manager, as the person to whom all communications pertaining to the day-to-day conduct of this Agreement shall be addressed.

16.2 Consultant Representative. Consultant appoints Joseph W. Roles, Jr. P.E.., as the Consultant's Representative to whom all communications pertaining to the day-to-day action of this Agreement shall be addressed.

SECTION 17 ALL PRIOR AGREEMENTS SUPERSEDED

17.1 This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained in this Agreement and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms of this Agreement shall be predicated upon any prior representations or agreements whether oral or written.

SECTION 18 SUBCONSULTANTS

18.1 The Consultant has presented the firms shown on EXHIBIT "D" attached hereto and made a part hereof, to the City to act as ongoing subconsultants during the term of this Agreement, and the City hereby approves Consultant's use of said firms.

18.2 In the event the Consultant requires the services of any other subconsultant or subcontractor not identified on EXHIBIT "D" in connection with services covered by this Agreement, any Project Agreement or any Letter Agreement, the Consultant must secure the prior written approval of the City Commission.

18.3 Any subcontract with a subcontractor or subconsultant shall afford to the Consultant rights against the subcontractor or subconsultant which correspond to those rights afforded to the City against the Consultant herein, including but not limited to those rights of termination as set forth herein.

18.4 **No reimbursement shall be made to the Consultant for any subconsultants that have not been previously approved in writing by the City for use by the Consultant.**

SECTION 19 NOTICES

19.1 Whenever either party desires to, or is required to give notice to the other, it must be given by written notice, sent by certified United States mail with return receipt requested or other commercial overnight delivery services, addressed to the party for whom it is intended, at the place last specified, and the place for giving notice in compliance with the provisions of this Section. For the present, the parties designate the following as the respective places for giving of notice, to wit:

FOR CITY:

Utilities Director
City of Sunrise
777 Sawgrass Corporate Parkway
Sunrise, Florida 33323
(954) 888-6055

WITH A COPY TO:

City Attorney
City of Sunrise
City Attorney's Office
10770 W. Oakland Park Boulevard
Sunrise, Florida 33351
(954) 746-3300

Procurement Manager
City of Sunrise
Purchasing Office
10770 W. Oakland Park Boulevard
Sunrise, Florida 33351
(954) 572-2274

FOR CONSULTANT:

Joseph W. Roles Jr. P.E., President
Joseph Roles and Assoc., Inc.
7501 NW 4th Street, Suite 101
Plantation, FL 33317
(954) 581-1945

SECTION 20 TRUTH-IN NEGOTIATION CERTIFICATE

20.1 Signature of this Agreement by Consultant shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other costs used to determine the compensation provided for in this Agreement are accurate, complete, and current as of the date of the Agreement and no higher than those charged to the Consultant's most favored customer for the same or substantially similar services. 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 presentation of fees paid to outside contractors. The City shall exercise its rights under this clause within three (3) years following final payment.

SECTION 21 GOVERNING LAW/JURISDICTION/VENUE

21.1 This Agreement shall be governed by the laws of the State of Florida. Except as set forth in Sections 14, 5.2, and 30, should the parties be involved in legal action arising under, or connected to, this Agreement, each party will be responsible for their own attorneys' fees and costs. The venue for any litigation between the parties will be Broward County, Florida. Both parties hereby agree to waive a jury trial in any action between them, and will proceed to a trial by judge if necessary.

SECTION 22 HEADINGS

22.1 Headings are for convenience of reference only and shall not be considered in any interpretation of this Agreement.

SECTION 23 EXHIBITS

23.1 Each Exhibit referred to in this Agreement forms an essential part of this Agreement. The Exhibits if not physically attached, should be treated as part of this Agreement, and are incorporated by reference.

SECTION 24 COUNTERPARTS

24.1 This Agreement may be executed in several counterparts, each of which shall be deemed an original and such counterparts shall constitute one and the same instrument.

SECTION 25 WORDS AND PHRASES

25.1 Where the words "required," "approved," "approval," "satisfactory," "determined," "acceptable," or words of like import are used in this Agreement, action by the City is indicated unless the context clearly indicates otherwise, and all work shall be in accordance therewith. Such action, or failure to act, shall not relieve the Consultant of its contractual responsibilities for performance of this Agreement. Wherever it is provided in the Agreement that the Consultant shall perform certain work "at its own expense," or "without charge," or that certain work will not be paid for separately, such words mean that the Consultant shall not be entitled to any additional compensation from the City for such work.

SECTION 26 NOTICE OF COMMENCEMENT/NOTICE TO PROCEED

26.1 Consultant shall not commence work until: 1) all insurance to be furnished hereunder has been approved by the City; and 2) Consultant has received a City Purchase Order and written Notice to Proceed or Notice of Commencement from the duly authorized representative of the City for provision of services under a Project Agreement or Letter Agreement. The City shall not be responsible to pay for or reimburse the Consultant for any work that does not comply with this Section.

SECTION 27 TIME IS OF THE ESSENCE

27.1 All limitations of time set forth in this Agreement or any resulting Project Agreement or Letter Agreement are of the essence.

SECTION 28 CLAIMS BY CONSULTANT

28.1 All claims by the Consultant, all questions concerning interpretation or clarification of this Agreement or the acceptable fulfillment of this Agreement on the part of the Consultant, and all questions as to compensation and to extension of time shall be submitted in writing to the City's representative. The Consultant shall be solely responsible for requesting instructions or interpretations and shall be solely liable for any costs and expenses arising from its failure to do so. All determinations, instructions, and clarifications of the City shall be final unless the Consultant files a written protest with the City Manager within fourteen (14) calendar days after the City's representative notifies the Consultant of any such determination, instruction, or clarification, which written protest shall state clearly and in detail the basis of the protest. The City Manager's decision shall be final.

28.2 The City Manager will issue a decision upon such protest. At all times during the protest period, the Consultant shall proceed with the work in accordance with determinations, instructions, and clarifications of the City's representative. The Consultant's failure to protest the City's representative's determinations, instructions, clarifications, or the City Manager's decision within fourteen (14) calendar days after receipt thereof shall constitute a waiver by the Consultant of all its rights to further protest, judicial or otherwise.

28.3 It is specifically agreed that any and all claims by a party against another party arising out of this Agreement or the performance of the work thereunder or relating thereto, or otherwise (including but not limited to claims for extra work) except as specifically se forth in Subsections 28.1 and 28.2 above, shall be waived unless presented in writing to the other party within the time limit specified in this Agreement but in no event in excess of thirty (30) calendar days after occurrence of the event or circumstances giving rise to such claim.

28.4 The Consultant shall also submit such information, costs and data in such detail and specificity as may be reasonably required by the City to justify and substantiate such claims. The Consultant shall certify that all such information, costs and data are accurate, complete, and true, to the best of its knowledge. It is agreed that under no circumstances shall the Consultant be compensated or reimbursed for expenses incurred in claim preparation, presentation, or prosecution unless directed in writing by the City.

SECTION 29 CONSULTANT'S STANDARD OF CARE

29.1 Consultant represents that Consultant's services shall be performed with that degree of skill and judgment which is normally exercised by recognized professional engineering firms performing services of a similar nature, and that the services shall be performed and shall conform to generally accepted engineering firms' standards and practices. Consultant will re-perform any services not meeting this standard without additional compensation and shall pay all costs and expenses associated with correcting said services or work including any additional testing, inspections, corrections, or construction.

SECTION 30 PATENT INDEMNITY

30.1 Subject to the limitations set forth in this Agreement, the Consultant shall indemnify, save harmless and defend the City and the City Commissioners, City officers, and City agents and employees (collectively "City Indemnified Party") from and against any and all suits, actions, legal proceedings, claims, demands, damages, costs, expenses and attorneys'

fees incident to any infringement of any patent or patents related in any manner to the subject matter of the Agreement documents prepared by the Consultant; provided, however, that any City Indemnified Party may, at its option, be represented in any such suits, actions or legal proceedings by attorneys selected by City Indemnified Party at Consultant's expense. In case the Construction Documents or any part thereof is held in such suit to constitute infringement of any patent or patents and its use enjoined, the Consultant shall, at its own expense, subject to the limitation of the Consultant liability prescribed in this Agreement, either procure for the City the right to continue using said Construction Documents or replace same with non-infringing Construction Documents.

SECTION 31 FORCE MAJEURE

31.1 Neither party shall be considered in default in the performance of its obligations hereunder to the extent that the performance of any such obligation is delayed, hindered or prevented by any cause which is beyond the reasonable control of the party affected thereby (hereinafter called "Force Majeure"). Force Majeure includes but is not limited to any of the following if reasonably beyond the control of the party claiming Force Majeure: war (declared or undeclared), fire, riot, storm, hurricane, floods, earth quake, tornado, act of terrorism or sabotage or any law, proclamation order, regulation, or ordinance of any government agency or any court, or any other cause similar to those enumerated above, which is not reasonably within the control of the party claiming Force Majeure.

31.2 The party affected by any Force Majeure shall give prompt written notice to the other party advising of the nature and extent of any Force Majeure and advising of the effects of the Force Majeure upon the completion and cost of the work hereunder. The parties shall consult promptly with each other concerning the Force Majeure and shall endeavor to agree upon mutually acceptable corrective action. In the event of a Force Majeure which prohibits performance by the Consultant for more than sixty (60) days, either party may terminate this Agreement for convenience and shall have no further obligation hereunder.

SECTION 32 SUSPENSION

32.1 The City may, at its sole option, decide to suspend at any time the performance of all or any portion of work to be performed under this Agreement. The Consultant will be notified of such decision by the City in writing. The order shall be specifically identified as a stop work order under this Section. Upon receipt of the order, the Consultant shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of suspension.

32.2 Upon receipt of any such notice, the Consultant shall, unless the notice requires otherwise, do the following:

A. Immediately discontinue work on the date and to the extent specified in the notice;
B. Place no further orders, contracts or subcontracts for material, services, or facilities with respect to suspended work other than to the extent required in the notice;
C. Promptly make every reasonable effort to obtain suspension upon terms satisfactory to the City, of all orders, subcontracts, and rental agreements to the extent they relate to performance of work suspended; and
D. Continue to protect and maintain the services including those portions on which services have been suspended.

32.3 As full compensation for such suspension, the Consultant shall be reimbursed for the following costs, reasonably incurred, without duplication of any item, to the extent that such costs directly result from such suspension of work:

A. An equitable amount to reimburse the Consultant for the cost of maintaining and protecting that portion of the services which have been suspended; and
B. If, as a result of any such suspension of services, the cost to the Consultant of subsequently performing services is increased or decreased, an equitable adjustment will be made in the cost of performing the remaining portion of services.

SECTION 33 RECORD DRAWINGS AND SPECIFICATIONS

33.1 During construction, the Consultant shall maintain for the City a record of deviations on the basis of information compiled and furnished, in part, by others, from the work as shown in the drawings and specifications and as actually installed. Before final payment by the City, the Consultant shall revise any drawings and specifications affected by such deviation so that all such documents shall show the work actually installed. A digital drawing or approved equal of the final certified record drawings shall be submitted to the City.

33.2 A review of the markup record drawings at the construction site will be conducted at the progress meeting.

SECTION 34 ORDER OF PRECEDENCE

34.1 In the event of an inconsistency between provisions of this Agreement, the inconsistency shall be resolved in the following order:

A. Project Agreement or Letter Agreement
B. Continuing Services Agreement
C. RFQ
D. Response to RFQ

SECTION 35 SUCCESSORS AND ASSIGNS

35.1 The City and Consultant bind themselves, their successors, assigns, and legal representatives to the other party hereto and to successors, assigns and legal representatives of such other party in respect to covenants, agreements, and obligations contained in this Agreement. The Consultant shall not assign this Agreement without prior written consent of the City.

SECTION 36 CONSULTANT'S PERSONNEL

36.1 The presence or duties of the Consultant's personnel at a work site, whether as onsite representatives or otherwise, do not make the Consultant or the Consultant's personnel in any way responsible for those duties that belong to the City and/or the construction contractors or other entities, and do not relieve the construction contractors or any other entity of their obligations, duties, and responsibilities, including, but not limited to, all construction methods, means, techniques, sequences, and procedures necessary for coordinating and completing all portions of the construction work in accordance with the construction Contract Documents and any health and safety precautions required by such

construction work. The Consultant and the Consultant's personnel shall report to the City any health or safety deficiencies of the construction contractor(s) or other entity or any other person at the construction site that Consultant's personnel actually observe.

SECTION 37 SEVERABILITY

37.1 If any provision of this Agreement or the application thereof to any person or situation shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, and the application of such provisions to persons or situations other than those as to which it shall have been held invalid of unenforceable, shall not be affected thereby, and shall continue in full force and effect, and be enforced to the fullest extent permitted by law.

SECTION 38 ENTIRETY OF CONTRACT

38.1. The City and the Consultant 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. 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 with the same formality as this Agreement.

SECTION 39 THIRD PARTY BENEFICIARIES

39.1 It is expressly understood and agreed that the enforcement of these terms and conditions shall be reserved to City and Consultant and that there are no third party beneficiaries under this Agreement.

SECTION 40 PUBLIC RECORDS

40.1 The Consultant shall comply with all applicable requirements contained in the Florida Public Records Law (Chapter 119, Florida Statutes), including but not limited to any applicable provisions in Section 119.0701, Florida Statutes. To the extent that the Consultant and this Agreement are subject to the requirements in Section 119.0701, Florida Statutes, the Consultant shall:

A. Keep and maintain public records required by the City to perform the services provided hereunder.

B. Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

C. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law for the duration of the term of this Agreement and following completion of this Agreement if the Consultant does not transfer the records to the City.

D. Upon completion of this Agreement, transfer, at no cost, to the City all public records in the possession of the Consultant or keep and maintain public records required by the City to perform the service. If the Consultant transfers all public records to the City upon completion of this Agreement, the Consultant shall destroy

any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Consultant keeps and maintains public records upon completion of this Agreement, the Consultant shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

40.2 If the Consultant fails to comply with the requirements in this Section 40, the City may enforce these provisions in accordance with the terms of this Agreement. If the Consultant fails to provide the public records to the City within a reasonable time, it may be subject to penalties under Section 119.10, Florida Statutes.

IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, THE CONSULTANT SHOULD CONTACT THE CITY'S CUSTODIAN OF PUBLIC RECORDS: THE CITY CLERK, FELICIA M. BRAVO, BY TELEPHONE (954/746-3333), E-MAIL (CITYCLERK @SUNRISEFL.GOV), OR MAIL (CITY OF SUNRISE, OFFICE OF THE CITY CLERK, 10770 WEST OAKLAND PARK BOULEVARD, SUNRISE, FLORIDA 33351).

SECTION 41 DISCRMINATORY VENDOR LIST

41.1 Pursuant to Section 287.134, Florida Statutes, an entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a consultant, contractor, supplier, subcontractor, or under a contract with any public entity; and may not transact business with any public entity. By execution of this Agreement, Consultant represents that it has not been placed on the discriminatory vendor list as provided in Section 287.134, Florida Statutes.

SECTION 42 PUBLIC ENTITY CRIMES

42.1 Pursuant to Section 287.133, Florida Statutes, 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 bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a consultant, contractor, supplier,

subcontractor, or 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 following the date of being placed on the convicted vendor list. By execution of this Agreement, Consultant represents that it has not been placed on the convicted vendor list as provided in Section 287.133, Florida Statutes.

SECTION 43 SCRUTINIZED COMPANY

(Applicable to agreements over $1 million for goods or services)

43.1 Pursuant to Section 287.135, Florida Statutes, Consultant certifies that it is not:

A. On the Scrutinized Companies that Boycott Israel List, or engaged in a boycott of Israel;
B. On the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; or
C. Engaged in business operations in Cuba or Syria.

43.2 Pursuant to Section 287.135, Florida Statutes, City may, at the option of the City Commission, terminate this Agreement if Consultant:

A. Is found to have submitted a false certification as provided under subsection 287.135(5);
B. Has been placed on the Scrutinized Companies that Boycott Israel List, or is engaged in a boycott of Israel;
C. Has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; or
D. Has been engaged in business operations in Cuba or Syria.

REMAINDER OF PAGE LEFT INTENTIONALLY 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 Joseph Roles and Assoc., Inc. by and through its President, the duly authorized officer to execute same.

CITY OF SUNRISE, FLORIDA

By: _____
Mayor Michael J. Ryan

29 day of November, 2017.

AUTHENTICATION:

_____
Felicia M. Bravo, City Clerk

(SEAL)

Approved as to form for the City:

Kimberly A. Kisslan, City Attorney

By: _____
Kimberly A. Kisslan
City Attorney

Authorized City Representative's Initials: _____

Authorized Consultant Representative's Initials: _____

CONSULTANT

JOESPH ROLES AND ASSOC., INC.

BY: _____
Joseph W. Roles Jr., P.E.

TITLE: President

15 day of NOVEMBER, 2017.

AUTHENTICATE:

Pamela J. Roles
Secretary

Pamela J. Roles
Please type name

(CORPORATE SEAL)

WITNESSES:

_____

_____

Authorized City Representative's Initials: _____

Authorized Consultant Representative's Initials: _____

EXHIBIT "A"

Scope of Services

The scope of this Agreement is presently planned to consist of one of more of the following specific projects. However, the exact specifications and location for each proposed project are subject to change by the City prior to execution of each Project Agreement or Letter Agreement. If any of the below listed projects do not meet the threshold of the Consultants Competitive Negotiation Act, the City reserves the right, at its sole discretion, to utilize the services of another Consultant to complete the particular project:

1. Reconstruction projects following extreme weather events
2. Utility Administration Building: 777 Sawgrass Corporate Parkway
3. Gas Administration Building: 4401 NW 103rd Avenue
4. Sawgrass Wastewater Treatment Plant: 14150 NW 8th Street
5. Springtree Wastewater Treatment Plant: 4350 Springtree Drive
6. Southwest Water Treatment Plant: 15400 Watermill Road
7. Southwest Wastewater Treatment Plant: 15400 Slydgemill Road
8. Park City Water Facility: 8700 S. Pine Island Road
9. Melaleuca Water Facility: 12630 SW 2nd Street
10. Fleet Maintenance/Fueling Station: 5580 NW 108th Avenue
11. Works Complex: 10500 NW 55th Street
12. Old Public Works site: 6466 NW 20th Street
13. Senior Center: 10650 W. Oakland Park Boulevard
14. City Hall: 10770 W. Oakland Park Boulevard
15. Civic Center: 10610 W. Oakland Park Boulevard
16. Fire Station No. 39: 6800 Sunset Strip
17. Fire Station No. 59: 8330 NW 27th Place
18. Fire Station No. 72: 10490 W. Oakland Park Boulevard
19. Fire Station No. 83: 60 Weston Road
20. Fire Station No. 92: 13721 NW 21st Street
21. Public Safety Building: 10440 W. Oakland Park Boulevard
22. Sunrise Athletic Complex: NW 44th Street 11501
23. City Park/Multi-Purpose Complex: 2240 NW 68th Avenue
24. Nob Hill Soccer Club: 10200: Sunset Strip
25. Flamingo Park: 12855 NW 8th Street
26. Oscar Wind Park: 270 N. New River Circle
27. Sawgrass Sanctuary: 237 N. New River Circle
28. Tennis Center: 9605 W. Oakland Park Boulevard
29. Welleby Park: 11100 NW 44th Street
30. Village Beach Club: 6767 NW 24th Street
31. Roller Hockey Complex: 5201 NW 103rd Avenue
32. Roarke Pool: 1720 NW 60th Avenue
33. Sunset Strip Park at NW 109th Avenue
34. 9525 W Oakland Park Parcel
35. Bicycle lane additions on roadways within the City's boundaries as found in the Sunrise Bicycle & Pedestrian - Greenways & Trails Master Plan
36. Milling and resurfacing roadways within the City's boundaries
37. Modifications to existing sidewalks and similar pedestrian paths with in the City's boundaries

38. Modifications to roadways including new or improvements to turn lanes and medians within the City's boundaries
39. Storm water improvements in rights-of-way within the City's boundaries
40. Modifications and improvements to existing canals, lakes, and other bodies of water within the City's boundaries
41. Miscellaneous installation of new and modifications or repairs to infrastructure both in existing rights-of-way and on City owned property including paving, storm drainage, water/wastewater utilities (including but not limited to gravity sanitary sewer lines, forcemains, watermains, lift stations, water services and metering), bridges, associated landscaping, and irrigation, with a construction value up to $2,000,000, as required.
42. Professional services to the City for additional projects in which construction costs do not exceed $2,000,000, and/or for study activities where fees do not exceed $200,000.

EXHIBIT "B"

HOURLY RATES

Increase In Hourly Rates – Hourly rates may be adjusted annually after the first full year of this AGREEMENT, if authorized by the CITY. In no instance may any adjustment exceed 5% in any one year. The adjusted rates shall not be used to adjust previously authorized Project Agreements. Such adjustment shall be authorized through a written amendment to this Agreement.

Principal (non- court related services)	$180.00/hr.
Senior Professional Engineer	$168.00/hr.
Professional Engineer	$155.00/hr.
Engineer	$140.00/hr.
Project Processing and Permits Coordinator	$120.00/hr.
Senior Designer	$112.00/hr.
Senior Technician / Designer	$89.00/hr.
Field Representative / Inspector	$87.00/hr.
Technical Assistant	$72.00/hr.
Administrative Services	$65.00/hr.

EXHIBIT "C"

PROJECT AGREEMENT

Between

THE CITY OF SUNRISE

And

INSERT FIRM NAME HERE

For

TITLE OF PROJECT

Pursuant to the provisions contained in the Continuing Services Agreement between the City of Sunrise ("City") and _____ ("Consultant") for Miscellaneous Civil Engineering Services (hereinafter referred to as "Continuing Services Agreement") dated _____, this Project Agreement (hereinafter referred to as "Agreement") authorizes the Consultant to provide the services as set forth below:

SECTION 1 INCORPORATION OF CONTINUING SERVICES AGREEMENT

1.1 All terms and conditions of the Continuing Services Agreement between the City and the Consultant dated _____, not specifically modified by this Agreement shall remain in full force and effect and are incorporated into and made a part of this Agreement by this reference as though set forth in full.

SECTION 2 CONSULTANT'S BASIC DUTIES TO CITY

2.1 By executing this Agreement, the Consultant represents to the City that the Consultant is professionally qualified to act as the Consultant for the Project (hereinafter referred to as "the Project") and is licensed to practice engineering by all public entities having jurisdiction over the Consultant and the Project. The Consultant further represents to the City that the Consultant will maintain all necessary licenses, or other authorizations necessary to act as Consultant for the Project until Consultant's duties hereunder have been completed. The Consultant shall be responsible for providing all necessary subconsultants required for the successful completion of the work as outlined in EXHIBIT "1," Scope of Services. The Consultant assumes full responsibility to the City for the improper acts, negligence, and omissions of its subconsultants and of all others employed or retained by the Consultant in connection with the Project.

2.2 Execution of this Agreement by the Consultant constitutes a representation that the Consultant has become familiar with the Project site and the local conditions under which the Project is to be implemented.

2.3 SCHEMATIC DESIGN

2.3.1 The Consultant shall review and examine the information, including any desired schedule and budgetary requirements, furnished by the City to understand the requirements of the Project and shall review its understanding of such requirements with the City.

2.3.2 The Consultant shall furnish to the City a preliminary written evaluation of such information in light of any Project budget requirements.

2.3.3 The Consultant shall review and discuss with the City any alternative approaches to design and construction of the Project.

2.3.4 The Consultant shall prepare and submit to the City for its review schematic design documents consisting of drawings and other documents illustrating the scale and relationship of proposed Project components. The Consultant shall be responsible for furnishing a legal description and any necessary survey(s) of the site, including, as may be reasonably required, grades and lines of streets, alleys, pavements and adjoining structures, rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data pertaining to existing buildings and other improvements; and information concerning available service and utility lines above and below grade, including inverts and depths.

2.3.5 The Consultant shall submit to the City an estimate of probable construction costs for the Project.

2.4 DESIGN DEVELOPMENT

2.4.1 Based on the schematic design documents and any adjustments to that design, the proposed schedule, or Project budget authorized by the City, the Consultant shall prepare and submit to the City for its review, design development documents consisting of drawings and other documents to fix and describe the size and character of the Project as to civil, architectural, structural, mechanical and electrical systems; landscape architectural and irrigation design; materials and such other elements as may be appropriate.

2.4.2 The Consultant shall review its estimate of probable construction costs, shall make any appropriate revisions thereto and furnish same to the City.

2.5 CONSTRUCTION DOCUMENTS

2.5.1 Upon the City's authorization, the Consultant shall prepare Construction Documents consisting of drawings and specifications setting forth in detail the requirements for construction of the Project. Such Construction Documents shall be project specific and shall be accurate, coordinated and adequate for construction, and shall be in conformity and comply with all applicable law, codes, standards, and regulations. Products specified for use shall be readily available unless specifically authorized by the City.

2.5.2 The Consultant shall review its most recent estimate of probable construction costs, shall make any appropriate revisions thereto and furnish same to the City.

2.5.3 The Consultant shall assist the City in preparing and filing all documents necessary to obtain the approval of all authorities having jurisdiction over the Project.

2.5.4 The Consultant shall be responsible for the preparation of bid packages to be made available for distribution to all prospective bidders. Such packages shall include copies of all relevant plans, specifications, and other documents upon which the bidding is to be based. The Consultant shall make copies of complete bid packages available at its office nearest to the Project site during normal business hours for all prospective bidders. The Consultant shall be reimbursed by the City for the actual cost of reproduction of the documents contained within the bid package as a reimbursable item pursuant to the terms of Section 6.2 of this Agreement.

2.5.5 In the event that there are amendments to the bid packages, amendments to any of the documents contained with the bid packages, or any clarifications issued during the bidding process, the Consultant shall prepare for the City's approval written addenda as appropriate to interpret, clarify or expand the bidding documents. The Consultant shall make such documents available to all prospective bidders in a manner acceptable to the City, and shall be reimbursed for the actual costs of reproduction at the same rate specified in Section 2.5.4. There shall be no additional charges for amendments or clarifications other than as provided in Section 2.5.4.

2.5.6 The Consultant shall coordinate with the City during the bidding process and be available to address bidders' questions and comments at any time during the bidding process. The Consultant shall attend the pre-bid meeting, which will be held at a location as specified by the City.

2.5.7 The Consultant shall be available as necessary to assist the City in the evaluation of all bids received for determination of compliance with the bidding requirements. The Consultant shall not be responsible for performing any investigations or reference checks regarding bidders, nor shall it be responsible for determining whether a bid is responsive or a bidder is responsible; however, the Consultant shall assist the City as necessary in making such determination.

2.5.8 The Consultant will investigate, study, and analyze any proposed substitutions of materials or equipment and shall advise the City with respect to same.

2.6 ADMINISTRATION OF CONSTRUCTION

2.6.1 The Consultant shall perform those duties and discharge those responsibilities set forth herein in Sections 2.6.2 through 2.6.13. Furthermore, the Consultant shall perform and be responsible for all services requested of the Consultant by the City relating to the interpretation and implementation of the Consultant's drawings, specifications, or other Construction Documents or other contract documents prepared by the Consultant.

2.6.2 The Consultant shall represent the City during construction and shall facilitate all instructions and other appropriate communications between the City and the Contractor, which shall be communicated through the Consultant. The Consultant shall act on behalf of the City only to the extent provided herein and in the Construction Contract.

2.6.3 Upon receipt, the Consultant shall carefully review and examine the Contractor's Schedule of Values, together with any supporting documentation or data that the City or the

Consultant may require from the Contractor. The purpose of such review and examination will be to protect the City from an unbalanced Schedule of Values that allocates greater value to certain elements of the work than is indicated by the supporting documentation or data or, than is reasonable under the circumstances. If the Schedule of Values is not found to be appropriate, or if the supporting documentation or data is deemed to be inadequate, and unless the City directs the Consultant to the contrary in writing, the Schedule of Values shall be returned to the Contractor for revision or supporting documentation or data. After making such examination, if the Schedule of Values is found to be appropriate as submitted, or if necessary, as revised, the Consultant shall sign the Schedule of Values thereby indicating its informed belief that the Schedule of Values constitutes a reasonable, balanced basis for payment of the Contract Price to the Contractor. The Consultant shall not sign such Schedule of Values in the absence of such belief unless directed to do so, in writing, by the City.

2.6.4 The Consultant shall observe the work of the Contractor on a periodic basis. The purpose of such observations will be to determine the quality, quantity and progress of the work in comparison with the requirements of the Construction Documents and Contract. In making such observations, the Consultant shall exercise care to protect the City from defects or deficiencies in the work from unexcused delays in the schedule and from overpayment to the Contractor. Following each such site visit, the Consultant shall submit a written report of such observations, together with any appropriate comments or recommendations, to the City. The Consultant shall not be responsible for any construction means, methods, sequences, or procedures for performing any construction activities.

2.6.5 The Consultant shall determine amounts owed to the Contractor based upon observations of the work as required in Subparagraph 2.6.4, evaluations of the Contractor's rate of progress in light of the remaining Contract Time and upon evaluations of the Contractor's Applications for Payment, and shall issue Certificates for Payment to the City in such amounts.

2.6.6 The issuance of a Certificate for Payment shall constitute a representation by the Consultant to the City that the Consultant has made an observation of the work as provided in Subparagraph 2.6.4, that the work has progressed to the level indicated, that the quality of the work meets or exceeds the requirements of the Construction Contract and that to the best of the knowledge, information and informed belief of the Consultant, the Contractor is entitled to payment of the amount certified; however, the issuance of a Certificate of Payment shall not constitute a representation that the Consultant has made an examination to ascertain how the Contractor has used the monies paid by the City.

2.6.7 The Consultant shall be the initial interpreter of the requirements of the drawings and specifications and the judge of the performance thereunder by the Contractor. The Consultant shall render written or graphic interpretations necessary for the proper execution or progress of the work with reasonable promptness on request of the Contractor.

2.6.8 The Consultant shall reject work that does not conform to the Construction Documents unless directed by the City, in writing, not to do so. If directed by the City not to reject work, the City shall be responsible for the results of such direction. The Consultant shall have the authority to reject work that affects public or personnel safety. Whenever, in the Consultant's opinion, it is necessary or advisable, the Consultant shall require special

inspection or testing of the work in accordance with the provisions of the Construction Contract whether or not such work is fabricated, installed or completed.

2.6.9 The Consultant shall review and take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples. Appropriate action by the Consultant of the Contractor's submittal shall constitute the Consultant's representation to the City that such submittal is in conformance with the Construction Documents and Contract, but does not hold the Consultant responsible for the accuracy and completeness of details such as dimensions and quantities, or for substantiating instruction for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Construction Documents. Such action shall be taken with reasonable promptness so as to cause no delay to the Contractor of the Project.

2.6.10 The Consultant shall review, and advise the City, concerning proposals and requests for Change Orders from the Contractor. The Consultant shall prepare Change Orders for the City's approval and execution in accordance with the Construction Contract, and shall have authority to order, by Field Order, minor changes in the work not involving an adjustment in Contractor's Contract Price or an extension of Contractor's Contract Time.

2.6.11 The Consultant shall conduct a site visit to determine the date of Substantial Completion and the date of Final Completion. As part of that process, Consultant shall receive and forward to the City for the City's review all written warranties and related documents and operating manuals required by the Construction Contract. Contractor shall issue a final Certificate for Payment when called for by the Contract for Construction.

2.6.12 The Consultant shall, without additional compensation, promptly correct any errors, omissions, deficiencies, or conflicts in its plans and specifications.

2.6.13 The Consultant shall visit the site as needed but not less than one time per month, including site visits for verification of the Contractor's monthly pay request, to observe the entire construction operation, for the term of construction as noted in Section 2.8.1. A report outlining the details of each site visit shall be furnished to the City within three (3) days of the required site visit. The City must be informed of any site visits, so that they have the opportunity to be included in the visit.

2.7 ADDITIONAL SERVICES

The following services of the Consultant are not included in Sections 2.3 through 2.6, nor in EXHIBIT "1," Scope of Services. Nevertheless, the Consultant shall provide such services as related to the Project if authorized in writing by the City prior to the performance or furnishing of same, and, unless otherwise specified in this Agreement, said services shall be paid for by the City as provided hereinafter.

2.7.1 Providing services to perform an extraordinary examination or investigation of existing conditions or to make measured drawings, or to verify the accuracy or other information provided by the City.

2.7.2 Making revisions in drawings, specifications or other documents when such revisions are inconsistent with written direction by the City previously given, are required by the enactment or revision of codes, laws or regulations subsequent to the preparation of such

documents and not reasonably anticipated, or are due to other causes not within the control or responsibility of the Consultant, either in whole or in part.

2.7.3 Preparing drawings, specifications and supporting data in connection with Change Orders, provided that such Change Orders are issued by the City due to causes not within the control or responsibility of the Consultant, either in whole or in part.

2.7.4 Providing services concerning repair or replacement of work damaged by fire or other cause during construction provided that such services are required by causes not the responsibility of the Consultant, either in whole or in part.

2.7.5 Providing services made necessary solely by the default of the Contractor or defects or deficiencies in the work of the Contractor.

2.8 SERVICE SCHEDULE

2.8.1 The Consultant shall perform its services expeditiously. The Consultant shall submit for the City's approval a schedule for the performance for the Consultant's services that 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 five (5) working days of said submittal. If, in the event that construction of the Project is suspended for more than thirty (30) 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 the Continuing Services Agreement as EXHIBIT "B" Hourly Rates. The reasonable term of construction upon which the fees for Construction Administration Services in this Agreement 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 forty-eight (48) hours 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.

2.8.2 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 "2." 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, which ever shall las occur, shall constitute the Contract Time.

2.8.3 Liquidated Damages: The parties recognize and agree that certain events may cause the City to suffer losses that are by their nature uncertain, difficult to prove, and not ascertainable at the time this Agreement is entered into. The parties agree that certain breaches will cause Consultant to pay City liquidated damages without any proof of the actual damage resulting from the breach. In no event shall these liquidated damages be construed or deemed to constitute penalties. Unless otherwise excused by the City in writing, in the event that the Consultant fails to meet the Contract Time for completion of

a particular phase of services as determined by the Project Schedule, the Consultant shall pay to the City the sum of dollars identified below per day for each and every calendar day of unexcused delay beyond the phase completion date, plus approved time extension, until completion of the phase:

Item 1	$_____
Item 2	$_____
Item 3	$_____
Item 4	$_____

2.8.4 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 or national disaster or emergency, unusual delay in deliveries, unusual delay in procuring permits, differing site conditions, unavoidable casualties or other cause beyond the Consultant's control, or by delay authorized by the City, or by other causes which the Consultant determines may justify delay. The Consultant's sole recovery and remedy for any such delay shall be a reasonable extension of time and a revision to the Project Schedule as determined by the City. 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 three (3) working 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 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.

2.8.5 Notwithstanding the provisions of Subparagraph 2.8.4, in the event that the Contractor fails to substantially complete the Project on or before the Substantial Completion date specified in the Construction Contract or the Contractor is granted an extension of the time to complete performance under the Construction Contract 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 "B." The amount of compensation due by the Consultant under this Subparagraph shall be pursuant to approved written Amendment to this Agreement

2.9 PERSONNEL

2.9.1 The Consultant shall assign only qualified personnel to perform any service concerning the Project. 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

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 3 CITY'S BASIC DUTIES TO CONSULTANT

3.1 The City shall provide the Consultant with adequate information regarding the City's requirements for the Project including any desired or required design or construction schedule, or both, and any budgetary requirements including fixed limit of construction cost, prior to the start of the Construction Documents Phase of design, upon which the Consultant shall be entitled to rely.

3.2 The City shall review any documents submitted by the Consultant requiring the City's decision, and shall render any required decision pertaining thereto in a timely fashion.

3.3 The City shall furnish structural, mechanical, chemical and other laboratory tests, inspections and reports as required by law or the Construction Contract.

3.4 If the City becomes aware of any fault or defect in the Project, nonconformance with the Construction Contract, or of any errors, omissions or inconsistencies in the drawings or specifications, prompt notice thereof shall be given by the City to the Consultant.

3.5 The City shall perform those duties set forth in Sections 3.1 through 3.4 as expeditiously as may reasonably be necessary for the orderly progress of the Consultant's services and of the work.

3.6 The City's review of any documents prepared by the Consultant or its subconsultants shall be solely for the purpose of determining whether such documents are generally consistent with the City's construction program and intent. No review of such documents shall relieve the Consultant of its responsibility for the accuracy, adequacy, fitness, suitability and coordination of its work product.

SECTION 4 CONSTRUCTION COSTS

4.1 If the cost of construction exceeds the cost agreed upon by the City by more than 5% of the lowest bona fide bid or negotiated proposal, the City may (1) give written approval of an increase in such fixed limit, (2) authorize rebidding or renegotiating of the Project, (3) terminate the Project and this Agreement in accordance herewith, or (4) cooperate in revising the Project scope or quality, or both, as required to reduce the construction cost. In the case of (4), the Consultant, without additional charge to the City, shall consult with the City and shall revise and modify the drawings and specifications as necessary to achieve compliance with the cost agreed upon by the City. Absent negligence on the part of the Consultant in making its estimates of probable construction cost, providing such modifications and revisions shall be the limit of the Consultant's responsibility arising from the establishment of such construction costs, and having done so, the Consultant shall be entitled to compensation for all other services performed, in accordance with this Agreement.

EXHIBIT "C"

SECTION 5 BASIS OF COMPENSATION

5.1 The City shall compensate the Consultant for an amount not to exceed _____ based on services rendered pursuant to Sections 2.3 through 2.6 and **EXHIBIT "1,"** Scope of Services, of this Agreement by allocating the estimated percentage of work for each of the phases set forth in Section 5.2. Billings for each phase shall not exceed the amount allocated to each phase.

5.2 Payment to the Consultant of the sum set forth in Section 5.1 shall be allocated based on the estimated percentage of work completed for each of the following phases:

Schematic Design:	$00.00	(%)
Design Development:	$00.00	(%)
Construction Documents:	$00.00	(%)
Construction Administration:	$00.00	(%)
Reimbursable Expenses	$00.00	(%)

5.3 Additional services of the Consultant as described in Section 2.7, if any, shall be compensated as follows:

See EXHIBIT "B" Hourly Rates of the Continuing Services Agreement–

5.4 Reimbursable Expenses as defined in Section 6 shall be reimbursed to the Consultant by the City as provided in Section 6.

5.5 If the scope of the Consultant's services are changed materially through no fault of the Consultant, compensation due to the Consultant shall be equitably adjusted, either upward or downward.

SECTION 6 BILLING AND PAYMENTS TO CONSULTANT

6.1 Billing by the Consultant shall be in accordance with EXHIBIT "E" of the Continuing Services Agreement. Payments to the Consultant shall also be in accordance with EXHIBIT "E" of the Continuing Services Agreement and EXHIBIT "2" of this Agreement.

6.2 REIMBURSABLE EXPENSES

6.2.1 Reimbursable Expenses shall mean expenses incurred by the Consultant and Consultant's in the interest of the Project, as follows:

Not to exceed $_____ without prior written authorization by the City.

6.2.1.1 Reasonable expenses of: long-distance communications; mileage reimbursement in accordance with Section 2-2 of the Code of Ordinance of the City of Sunrise, Florida; fees paid for securing approval of authorities having jurisdiction over the Project; actual cost of reproduction, postage and handling of drawings, specifications and other documents; renderings, models and mock-ups requested by the City; additional

insurance coverage or limits, including professional liability insurance, requested by the City in excess of that required in the Request For Qualifications. The Consultant shall only be reimbursed for the direct cost of the item without additional mark-up. Costs for meals, snacks, and beverages are not considered a reimbursable expense.

SECTION 7 TERM

7.1 This Agreement shall commence on the date this instrument is fully executed by all parties and shall continue in full force and effect for a period of three (3) years from the date of execution hereof, unless otherwise terminated pursuant to Section 8.1 or 8.2, or other applicable sections of this Agreement. The City's Capital Projects Director may extend the term of this Agreement through written notification to the Consultant. Such extension shall not exceed three (3) one-year terms. No further extensions of this Agreement shall be effective unless authorized by City code or City Commission action.

SECTION 8 TERMINATION

8.1 TERMINATION FOR CAUSE

8.1.1 This Agreement may be terminated by either party upon seven (7) days' written notice to the other should such other party fail substantially to perform in accordance with its material terms through no fault of the party initiating the termination. In the event of a termination for cause, the Consultant shall be entitled to receive compensation for any work completed pursuant to the Agreement to the satisfaction of the City through the date of termination, less any amounts which the City reasonably deems necessary to withhold in order to correct any defects or deficiencies in the work performed by the Consultant. In no event shall the City pay for profit or overhead on work not performed.

8.2 TERMINATION FOR CONVENIENCE

8.2.1 This Agreement may be terminated by the City without cause upon ten (10) days' written notice to the Consultant. In the event of such a termination without cause, the Consultant shall be compensated for all services completed pursuant to this Agreement to the satisfaction of the City up to and through the date of termination, together with Reimbursable Expenses incurred. In such event, the Consultant shall promptly submit to the City its invoice for final payment and reimbursement which invoice shall comply with the provisions of Section 2.5 of EXHIBIT "E" of the Continuing Services Agreement.

8.2.2 Under no circumstances shall the City make payment of profit or overhead for work that has not been performed. Additionally, the City shall not make payment for the following items:

8.2.2.1 Anticipated profits or fees to be earned on completed portions of the work;

8.2.2.2 Consequential damages;

8.2.2.3 Costs incurred in respect to materials, equipment or services purchased or work done in excess of reasonable quantitative requirements of this Agreement;

8.2.2.4 Expenses of Consultant due to the failure of Consultant or its subconsultants to discontinue the work with reasonable promptness after notice of termination has been given to the Consultant; and

8.2.2.5 Losses upon other contracts or from sales or exchanges of capital assets or Internal Revenue Code Section 1231 assets.

8.2.2.6 Damage or loss caused by delay.

8.3 Assignment Upon Termination. Upon termination of this 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 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 9 SEVERABILITY

9.1 If any term or provision of this Agreement or its application thereof to any person or circumstance shall, to any extent, be held invalid or unenforceable, the remainder of this 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 Agreement shall be deemed valid and enforceable to the extent permitted by law.

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EXHIBIT "C"

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 _____, signing by and through its _____ duly authorized to execute same.

CITY

CITY OF SUNRISE, FLORIDA

By: _____
Mayor Michael J. Ryan

_____ day of _____, 20__.

AUTHENTICATION:

_____
City Clerk

(SEAL)

Approved as to form for the City:

Kimberly A. Kisslan, City Attorney

By: _____
Kimberly A. Kisslan
City Attorney

EXHIBIT "C"

CONSULTANT

_____

By: _____

____ day of _____, 20__.

AUTHENTICATE:

_____
Secretary

_____
Please type name of Secretary

(CORPORATE SEAL)

WITNESSES:

_____

_____

EXHIBIT "C"

EXHIBIT "1"

SCOPE OF SERVICES

EXHIBIT "C"

EXHIBIT "2"

PROJECT SCHEDULE

EXHIBIT "D"

SUBCONSULTANTS LIST

MECHANICAL, ELCTRICAL AND PLUMBING ENGINEERING: Kamm Consulting, Inc.

STRUCTURAL ENGINEERING: Construction Engineering Consultants Corp.

LANDSCAPE ARCHITECTURE: Michael J. Petrow & Associates, Inc.

SURVEY: Stoner and Associates, Inc.

EXHIBIT "E"

COMPENSATION AND METHOD OF PAYMENT

City agrees to pay the Consultant, as compensation for the consulting services provided for in this Agreement, an amount to be negotiated by the City and the Consultant, in accordance with the provisions of this Agreement and the City Ordinances and/or policy.

1. **METHOD OF BILLING AND PAYMENT**

1.1 The Consultant shall submit invoices no more frequently than once per month to the City's Representative for services performed to date under this Agreement. Said invoice shall include at minimum the items identified in Section 4 below.

1.2 The City agrees that it will make its best efforts to pay the Consultant within twenty (20) calendar days of receipt of the Consultant's correct statement as provided herein.

1.3 Payment will be made to the Consultant at the following address:

7501 NW 4th Street, Suite 101
Plantation, FL 33317

2. **INVOICES**

Consultant invoices must consist of the following:

2.1 **FOR PROJECT SUM WORK/SERVICES**

A. Project Number and Project Name assigned by City
B. Date
C. Billing Period
D. Invoice Number
E. Purchase Order Number
F. Phase of work as set forth in the work authorization and the estimated percentage of work completed. Billings for each phase shall not exceed the amount allocated to said phase. Invoice shall include a summary of fees with accrual of the total and credits for portions paid previously.
G. Amount billed to date on previous invoices
H. Amount paid to date on previous invoices
I. If multiple City accounts are used, allocation of work to each account.
J. Beginning and ending balance amount
K. When requested by City, Consultant shall provide backup for past and current invoices that record hours, hourly rate costs and expenses so that total hours and costs by tasks may be determined.

2.2 Invoices shall be accompanied by such supporting documentation as the City may from time to time reasonably request. Supporting documentation for Reimbursable Costs shall include, but not be limited to the following:

A. Labor costs shall be supported by a description of the work performed during the invoiced period, if requested, as agreed to by the City, and by person.

B. Billings by the Consultant for the City-approved services, expenses, and other costs for outside commitments, of vendors, suppliers and subconsultants shall be supported by copy of such third parties' original invoice and related supporting documentation.

C. Where authorized, billings for travel and per diem expenses excluding meals, shall be supported by travel expense reports. Travel expenses shall not exceed the amounts authorized by Section 2-2 of the Code of Ordinances of the City of Sunrise, Florida.

D. The Consultant will prepare and the Consultant's Project Manager will sign each invoice submitted.

2.3 Consultant Pay Requests: The Consultant's payment requests for services shall, where applicable, reflect the allocations as provided in this Agreement and shall state the percentage of completion as to each such allocation. The invoice shall bear the signature of the Consultant, which signature shall constitute the Consultant's representation to the City that the services indicated in the invoice have progressed to the level indicated, have been properly and timely performed as required herein, that the rates billed are correct and in accordance with the rates in EXHIBIT "B," that the Reimbursable Expenses included in the invoice have been reasonably incurred, that all obligations of the Consultant covered by prior invoices have been paid in full, and that, to the best of the Consultant's knowledge, information and informed belief, the amount requested is currently due and owing, there being no reason known to the Consultant that payment of any portion thereof should be withheld. Submission of the Consultant's invoice for final payment and reimbursement shall further constitute the Consultant's representation to the City that, upon receipt from the City of the amount invoiced, all obligations of the Consultant to, others, including its subconsultants, incurred in connection with the Project, will be paid in full.

2.4 The City may withhold payment on items lacking proper support until such support is received and accepted by the City. Disputed items will be deducted from invoices by the City and referred to the Consultant for clarification to avoid delay in payment of undisputed items. Payment by the City of the Consultant's invoices shall be without prejudice to the City" right to audit the Consultant's invoices and to challenge the correctness of the invoice at any time thereafter.

2.5 As soon as practical after submission to the City of **1)** the Consultant's final statement supported by an invoice, and **2)** a certificate signed by the City's Representative that the work under this Agreement has been satisfactorily completed, the City shall make final payment in an amount which will make the aggregate of all progress payments and the final payment equal to the full amount due under this Agreement. Submission of the Consultant's invoice for final payment and reimbursement shall constitute the Consultant's representation to the City that, upon receipt from the City of the amount invoiced, all obligations of the Consultant to others, including its subconsultants, incurred in connection with the Project, shall be paid in full. The Consultant shall deliver to the City all documents requested by the City evidencing payment to any and all subconsultants,

and all final specifications, plans or other documents as dictated in the Agreement. Acceptance of final payment shall constitute a waiver of all claims against the City by the Consultant.

2.6 Payments otherwise due the Consultant may be withheld in an amount sufficient to satisfy any claim which the City may have against the Consultant.

2.7 The Consultant shall promptly repay to the City, within thirty (30) days after receipt of the City's request, any overpayment by the City.

EXHIBIT "F"

Sunrise Account No.: _____

Sunrise P.O. No.: _____

Sunrise Project No.: _____

PROJECT TITLE

Letter Agreement No. LA____

Pursuant to the provisions contained in the Continuing Services Agreement between the City of Sunrise ("City") and _____ ("Consultant") for Miscellaneous Civil Engineering Services (hereinafter referred to as "Continuing Services Agreement") dated _____, this Letter Agreement authorizes the Consultant to provide the services as set forth below. The City and the Consultant hereby agree as follows:

A. INCORPORATION OF CONTINUING SERVICES AGREEMENT

1. All terms and conditions of the Continuing Services Agreement between the City and the Consultant, not specifically modified by this Letter Agreement shall remain in full force and effect and are incorporated into and made a part of this Letter Agreement by this reference as though set forth in full.

B. SCOPE OF SERVICES: The Consultant will perform the following:

1. Provide a general description of the work. The last sentence of the description to read, "The work under this Letter Agreement shall include the following specific tasks:"

   a) _____

   b) _____

C. TERM AND TERMINATION

1. This Letter Agreement shall be effective on the date it is executed by the last party to execute it and shall be effective for a period of one (1) year from the date of execution.

2. This Letter Agreement may be terminated by either party upon seven (7) days' written notice to the other should such other party fail substantially to perform in accordance with its material terms through no fault of the party initiating the termination. In the event of a termination for cause, the Consultant shall be entitled to receive compensation for any work completed pursuant to the Letter Agreement to the satisfaction of the City through the date of termination, less any amounts which the City reasonably deems necessary to withhold in order to correct any defects or deficiencies in the work performed by the Consultant. In no event shall the City pay for profit or overhead on work not performed.

3. This Letter Agreement may be terminated by the City without cause upon ten (10) days' written notice to the Consultant. In the event of such a termination without cause, the Consultant shall be compensated for all services completed pursuant to this Letter Agreement to the satisfaction of the City up to and through the date of termination, together with Reimbursable Expenses incurred. In such event, the Consultant shall promptly submit to the City its invoice for final payment and reimbursement which

invoice shall comply with the provisions of Section 2.5 of EXHIBIT "E" of the Continuing Services Agreement and Section F of this Letter Agreement.

4. Under no circumstances shall the City make payment of profit or overhead for work that has not been performed. Additionally, the City shall not make payment for the following items:

   a. Anticipated profits or fees to be earned on completed portions of the work;

   b. Consequential damages;

   c. Costs incurred in respect to materials, equipment or services purchased or work done in excess of reasonable quantitative requirements of this Letter Agreement;

   d. Expenses of Consultant due to the failure of Consultant or its subconsultants to discontinue the work with reasonable promptness after notice of termination has been given to the Consultant;

   e. Losses upon other contracts or from sales or exchanges of capital assets or Internal Revenue Code Section 1231 assets; and

   f. Damage or loss caused by delay.

D. DELIVERABLES

1. _____

2. _____

E. SCHEDULE

1. The Consultant will commence work upon receipt of an executed Letter Agreement and shall perform its services as expeditiously as practical to meet the project schedule attached as EXHIBIT "1" to this Letter Agreement.

2. Upon receipt of the fully executed Purchase Order, the Consultant shall commence services to the City, 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 Letter Agreement as EXHIBIT "1." 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, which ever shall las occur, shall constitute the Contract Time.

3. 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 or national disaster or emergency, unusual delay in deliveries, unusual delay in procuring permits, differing site conditions, unavoidable casualties or other cause beyond the Consultant's control, or by delay authorized by the City, or by other causes which the Consultant determines may justify delay. The Consultant's sole recovery and remedy for any such delay shall be a reasonable extension of time and a revision to the Project Schedule as determined by the City. 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 three (3) working 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 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.

F. COMPENSATION

1. The City shall compensate the Consultant for an amount not to exceed _____ based on services rendered pursuant to Section B Scope of Services, of this Letter Agreement by allocating the estimated percentage of work for each of the phases set forth in Section F.2. Billings for each phase shall not exceed the amount allocated to each phase.

2. Payment to the Consultant of the sum set forth in Section F.1 shall be allocated based on the estimated percentage of work completed for each of the following tasks:

Task 1	$0.00
Task 2	$0.00
Task 3	$0.00

G. BILLING AND PAMENTS TO CONSULTANT

1. Billing by the Consultant shall be in accordance with EXHIBIT "E" of the Continuing Services Agreement. Payments to the Consultant shall also be in accordance with EXHIBIT "E" of the Continuing Services Agreement and EXHIBIT F of this Letter Agreement.

H. KEY CONSULTANT PERSONNEL

_____

_____

_____

I. SEVERABILITY

1. If any term or provision of this Letter Agreement or its application thereof to any person or circumstance shall, to any extent, be held invalid or unenforceable, the remainder of this Letter 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 Letter Agreement shall be deemed valid and enforceable to the extent permitted by law.

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EXHIBIT "F"

IN WITNESS WHEREOF, the parties hereto have made and executed this Letter Agreement on the respective dates under each signature: The City, signing by and through its (Insert the name of the City Manager, Utilities Director or Deputy Utilities Director), and by (Insert the Name of Firm), signing by and through its (Insert the Title of Person Authorizing Agreement), the duly authorized officer to execute same.

CITY OF SUNRISE, FLORIDA

By: _____
(Insert "City Manager" or "Utilities Director" or Deputy Utilities Director")

____ day of _____, 20XX.

CONSULTANT:

By: _____
(Insert Name of Signatory)
(Insert Title of Signatory)

EXHIBIT "F"

EXHIBIT "1"

PROJECT SCHEDULE