

RESOLUTION NO. 2019-28

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA; RELATED TO ROADWAY IMPROVEMENTS; AMENDING RESOLUTION NO. 2017-47 ALLOCATING \$500,000 TOWARDS THE BIKE LANE CONSTRUCTION ON SW 136TH STREET TO PROVIDE THAT UP TO \$250,000 ARE ALLOCATED FOR DESIGN COSTS AND THE REMAINING FUNDS ARE ALLOCATED TOWARDS CONSTRUCTION COSTS; AUTHORIZING THE VILLAGE MANAGER TO ENTER INTO A CONTRACT WITH RJ BEHAR AND CO. INC, FOR THE AMOUNT OF \$236,517; AND PROVIDING AN EFFECTIVE DATE *(Sponsored by Administration)*

WHEREAS, the Village Council adopted Resolution No. 2017-47 approving the Join Participation Agreement with Miami-Dade County to construct a bicycle lane along SW 136 Street from US 1 to Old Cutler Road; and,

WHEREAS, Resolution No. 2017-47 allocated a total of \$500,000 in Village funds towards the project, with \$100,000 allocated for design services and \$400,000 for construction; and,

WHEREAS, in order to fund the design of the bike lane improvements, the Village needs to utilize resources of the County to prepare the final design of the SW 136th bike lane project for construction purposes; and

WHEREAS, the Village has negotiated a contract with RJ Behar, as the Design team, and the JPA has been executed by the Miami-Dade County Board of Commissioners (Exhibit C) and Resolution No. 2017-47 must be amended to allocate up to \$250,000 for design costs and the remaining funds from the total allocation of \$500,000 towards construction.

WHEREAS, the Village and the Design team desire to enter into a contractual agreement.

1 **NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND**
2 **VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY,**
3 **FLORIDA, AS FOLLOWS:**

4
5 **Section 1.** The Village Council hereby amends Resolution No.
6 2017-47 and allocates up to \$250,000 for design services and the
7 remaining funds from the total allocation of \$500,000 towards
8 construction costs for the bike lane along SW 136th Street.

9
10 **Section 2.** The Village Council hereby approves the contract
11 between the Village of Palmetto Bay and RJ Behar & Co. Inc, in
12 substantial form and content to the attached Exhibit "A" to provide
13 design services for the bike lane improvements.

14
15 **Section 3.** The Village Manager is authorized to take all action
16 necessary to enter into contract with RJ Behar, subject to the terms
17 and conditions negotiated between both parties prior to disbursement
18 of funds to the County.

19
20 **Section 4.** This Resolution shall take effect upon approval.

21
22 **PASSED** and **ADOPTED** this 4th day of February 2019.

23
24 Attest:

25
26 DocuSigned by:
27 Missy Arocha
28 Missy Arocha
29 Village Clerk

30
31 DocuSigned by:
32 Karyn Cunningham
33 Karyn Cunningham
34 Mayor

35
36
37 APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE
38 USE AND RELIANCE OF THE VILLAGE OF PALMETTO BAY,
39 FLORIDA ONLY:

40 DocuSigned by:
41 Dexter W. Lehtinen
42 Dexter W. Lehtinen
43 Village Attorney

1 **FINAL VOTE AT ADOPTION:**
2
3 Council Member Patrick Fiore YES
4
5 Council Member David Singer YES
6
7 Council Member Marsha Matson YES
8
9 Vice-Mayor John DuBois YES
10
11 Mayor Karyn Cunningham YES



PROJECT AGREEMENT

Between

VILLAGE OF PALMETTO BAY, FLORIDA

And

R.J. Behar and Company, Inc.

For

Work Order No. 0000??

Bike Lanes on SW 136th Street and Related Roadway Improvements

PROJECT AGREEMENT

Between

THE VILLAGE OF PALMETTO BAY, FLORIDA

And

R.J. Behar and Company, Inc.

For

Work Order No. 0000??

Bike Lanes on 136th Street and Related Roadway Improvements

Pursuant to the provisions contained in the "Project Agreement" between the VILLAGE OF PALMETTO BAY, FLORIDA, 9705 E Hibiscus Street, Palmetto Bay, Florida 33157 (the "Village") and R.J. Behar and Company, Inc., ("Consultant") dated _____, this Project Agreement authorizes the Consultant to provide the services as set forth below:

The Village and Consultant agree as follows:

SECTION 1. SCOPE OF SERVICES

GENERAL

RJ Behar will provide all project management, investigation, analysis, permitting, utility coordination, and civil engineering services necessary for roadway and drainage, signing and pavement marking improvements along the following street: SW 136 Street from US 1 to Old Cutler Road (1.74 miles).

The project scope of services includes:

1. Prepare plans for adding two bicycle lanes (one eastbound and another westbound).
2. The existing sidewalks on both sides will remain unless other proposed work requires its reconstruction.
3. Upgrade the existing drainage system to ensure that required water treatment is provided and to conform to the proposed roadway modifications
4. Provide new pavement markings and upgrade roadway signs as necessary within the project limits, for the bicycle lanes only.
5. Prepare a traffic control plan.
6. Prepare landscape plans and tree removal/relocation per Miami Dade County requirements.

All maps, plans and designs are to be prepared with English Units in accordance with the FDOT Plans Preparation Manual and CADD Production Criteria Handbook and the plans will be produced on 11 X 17 size sheets at 1" = 40' scale. The Consultant will provide a CD containing PDF's and all CADD project files to the Village at the conclusion of the project.

OTHER AGENCY MEETINGS

The consultant will meet with Miami Dade County staff to coordinate the proposed improvements.

SPECIFICATIONS PACKAGE PREPARATION

Prepare project-specific specifications governing the work necessary to construct the proposed improvements.

ROADWAY ANALYSIS

RJ Behar shall analyze and document roadway analysis and design tasks in accordance with the Miami-Dade County Minimum Standards, the Manual on Uniform Traffic Control Devices (MUTCD) and the Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways (Florida Greenbook).

TYPICAL SECTION PACKAGE

RJ Behar will prepare typical section(s) covering the project limits for review and concurrence by the Village staff.

PAVEMENT DESIGN PACKAGE

RJ Behar will utilize a pavement design in accordance with the Miami Dade County Standards.

HORIZONTAL/VERTICAL MASTER DESIGN FILE

RJ Behar will set up and maintain vertical and horizontal control files from survey information provided by Miami-Dade County. The standards referred to above will be used to evaluate the existing conditions and recommend improvements within the project limits.

CROSS SECTION DESIGN FILE

RJ Behar will set up and maintain cross section files from the survey information showing the proposed pavement widening and roadside improvements.

QUANTITIES

RJ Behar will compute all the quantities necessary to prepare an accurate cost estimate of the proposed improvements.

COST ESTIMATE

RJ Behar will provide Engineer's Estimate of Probable Cost at 50% and Final plans.

FIELD REVIEW

RJ Behar will conduct field visits to familiarize staff with the project site and to identify any conditions that were not included in information collected from other sources.

ROADWAY PLANS

The roadway plans shall include the following sheets:

- Cover Sheet
- Summary of Pay Items
- Typical Section(s)
- Typical Section Detail(s)
- General Notes/Pay Item Notes
- Summary of Quantities Sheets
- Plan sheets (1"=40' scale)
- Special Profiles
- Special Details
- Cross Sections
- Temporary Traffic Control Plan
- Temporary Traffic Control Details

DRAINAGE ANALYSIS

Analyze and document Drainage Tasks in accordance with all applicable manuals, guidelines, standards, handbooks, procedures and current design memorandums.

DESIGN OF STORM DRAINS

RJ Behar is to design new inlets to replace existing ones impacted by proposed work and to provide additional inlets to upgrade drainage.

DESIGN OF FRENCH DRAIN SYSTEM

RJ Behar is to design new French Drain system to provide water quality and storm water removal.

DRAINAGE DESIGN DOCUMENTATION REPORT

RJ Behar will compile drainage design documentation into report format. Include documentation for all the drainage design tasks and associated meetings and decisions. This report will provide documentation of the existing drainage and permit conditions within the project area, identification of the drainage and/or permit requirements, analysis of alternative solutions (based on level of improvement and cost), and recommendations of a preferred alternative to be evaluated further to alleviate or eliminate the drainage problem.

FIELD REVIEW

RJ Behar will perform site visits to determine the effectiveness of the existing drainage system. Provide photographic documentation.

DRAINAGE PLANS

The roadway plans shall include the following sheets:

- Drainage Structure Sheet(s)
- Miscellaneous Drainage Detail(s)

UTILITIES

RJ Behar shall identify existing utility facilities within the project corridor and obtain information about the same from the Utility Agency Owners (UAO) in order to avoid or minimize conflicts between utility facilities and proposed improvements. The consultant will also document commitments to relocate utilities by the UAO, should utility relocation become necessary.

ENVIRONMENTAL PERMITS

- Preliminary Project Research

Identify and locate any permits previously issued for improvements within the project limits.

- Prepare DRER Permit

RJ Behar will prepare and submit for approval the permit application for the proposed improvements within the project limits, together with any supporting documentation. The fee for the permit shall be determined at the time of application and is not included in the fee below.

- Prepare FDOT Construction Agreement

RJ Behar will prepare and submit for approval the permit application for the construction agreement for the proposed improvements on SW 136 Street to US 1, together with any supporting documentation. The fee for the permit shall be determined at the time of application and is not included in the fee proposal.

SIGNING AND PAVEMENT MARKING ANALYSIS

The Consultant shall analyze and document signing and pavement marking analysis and design in accordance with the Miami Dade Minimum Standards, the Manual on Uniform Traffic Control Devices (MUTCD).

SIGNING AND PAVEMENT MARKING PLANS

The signing and pavement marking plans shall include the following sheets:

- Tabulation of Quantities
- General Notes/Pay Item Notes
- Plan Sheets
- Special Details

LANDSCAPING

Task I: Preliminary Design (1 Submittal)

Develop a concept for the site for Tree Disposition and Planting. The deliverables for this phase are as follows:

- Plans generally identifying trees impacted by the roadway improvements and addition of bike lanes for review and coordination. Preliminary Tree Disposition Plans identifying mitigation needs. We assume we will receive base plans and a complete Tree Survey identifying all existing tree locations and sizes in CAD along with an Excel file list of trees with accompanying information.
- Coordination with team and/or City as required (max. 2 meetings).
- Rendered Plans are excluded, however if needed we will negotiate fees separately for this task.

Phase II: Construction Documents (50%, 90% and Final Plans)

Construction Documents will consist of the following:

- Tree Disposition Plans. The plans will indicate disposition of existing trees (to remain, to remove or to relocate). Details of Tree Protection will be provided.
- Planting Plans. The plans will indicate the location, size, quantity and quality of plant materials. Details of planting installation will be provided.
- Technical specifications for Tree Protection, Tree Relocation and Planting.
- Coordination with all team members and up to two additional meetings with team and/or City.
- Irrigation Plans are excluded, however if needed we will negotiate fees separately for this task.

GEOTECHNICAL

A geotechnical exploration for the design and construction of the SW 136 Street complete street infrastructure improvements will be performed in accordance with the Soils and Foundations Handbook (S&FH) and the RFP requirements.

Once a conceptual geotechnical exploration plan has been developed, we will review our proposed exploration plan with the **Village of Palmetto Bay's** Project Manager for concurrence. Utility clearance and coordination, as well as applicable right-of-way permits, will be performed prior to field activities. A laboratory testing program will be conducted to verify soil properties and to provide guidance on soil suitability. Upon completion of the geotechnical explorations and associated lab testing, geotechnical analyses and recommendations will be presented in geotechnical reports. Based on a review of the available project information and our experience on similar projects, we consider the following to be specific areas of focus for this project:

- High water tables are anticipated within the project limits. We will evaluate the groundwater levels, including review of available historical information, in order to insure the required roadway base clearance is maintained.
- Challenges for the field exploration activities on this project will include Temporary Traffic Control Plan (TTCP) while performing soil borings, underground utility locations and coordination of drilling activities with the various agencies involved in the project.

SURVEYING

The field survey was prepared and provided by Miami Dade County Public Works.

For the Total Price of Two Hundred and Forty Thousand One Hundred and Forty Dollars and Ten Cents (\$ 240,140.10).

SECTION 2. DELIVERIES and Key Milestones

1. Immediately after NTP the field survey activities will commence.
2. Utility contacts will also be initiated immediately after NTP.

3. Geotechnical exploration will commence once the roadway baselines has been established in the field.
4. Development of typical section packages and identification of any design exceptions will be prepared.
5. A permit pre-application meeting will be scheduled with the relevant agencies.
6. 50% roadway, signing and marking, signal, lighting and landscape plans will be produced; this includes drainage design and preliminary drainage plans and landscape plans.
7. Permit applications will be initiated.
8. Utility Coordination meeting will be scheduled as the project gets close to 60% complete.
9. 90% roadway, signing and marking, lighting and landscape plans will be produced.
10. Final plans submittal will be made.
11. Deliver signed and sealed final documents

SECTION 3. TERM/TIME OF PERFORMANCE/DAMAGE

3.1 **Term.** This project agreement shall commence on the date this instrument is fully executed by all parties and shall continue in full force and effect, unless otherwise terminated pursuant to section 6 or other applicable provisions of this project agreement.

3.2 **Commencement.** The Consultant's services under this project agreement and the time frames applicable to this project agreement shall commence upon the date provided on this Project Agreement executed by both the Consultant and the Village.

3.3 **Contract Time.** The project will commence the date the project agreement has been fully executed with a target date of completion of October 18, 2019.

3.4 **Liquidated Damages.** Unless otherwise excused by the Village in writing, in the event that the Consultant fails to meet to the contract time for completion of services as determined by the Project Schedule, the Consultant shall pay to the Village the sum of dollars identified below per day for each and every calendar day unexcused delay beyond the completion date, plus approved time extensions, until completion of the project: \$_____per day. The Consultant may claim extension if the factors involved are not under their direct control.

Any sums due and payable hereunder by the Consultant shall be payable, not as a penalty, but as liquidated damages representing and estimate at or before the time of executing this agreement. When the Village reasonably believes that completion will be inexcusably delayed, the Village shall be entitled, but not required, to withhold from any amounts otherwise due the Consultant an amount then believed by the Village to be adequate to recover liquidated damages applicable to the delays. If and when the Consultant overcomes the delay in achieving completion, or any part thereof, for which the Village has withheld payment, the Village shall promptly release to the Consultant those funds withheld, but no longer applicable, as liquidated damages.

3.5 All limitations of time set forth in this agreement are of the essence.

SECTION 4. AMOUNT, BASIS AND METHOD OF COMPENSATION

4.1 **Lump Sum Compensation.** Please refer to Section I under "Scopes of Services and Deliverables".

SECTION 5. BILLING AND PAYMENTS TO THE CONSULTANT

5.1 Invoices

5.1.1 **Lump Sum Compensation:** The Village will issue a purchase order for the project specified in Section 1. Consultant will bill the Village referencing the purchase order number and send invoice to Dionisio Torres, Public Service Director, 9495 SW 180th Street, Palmetto Bay, Florida 33157. Please allow 30 days for payment.

5.2 **Disputed Invoices.** In the event that all or a portion of an invoice submitted to the Village for payment to the Consultant is disputed, or additional backup documentation is required, the Village shall notify the Consultant within 15 working days of receipt of the invoice of the objection, modification or additional documentation request. The Consultant shall provide the Village with additional backup documentation within five working days of the date of the Village's notice. The Village may request additional information, including but not limited to, all invoices, time records, expense records, accounting records, and payment records of the Company. The Village, at its sole discretion, may pay to the Consultant the undisputed portion of the invoice. The parties shall endeavor to resolve the dispute in a mutually agreeable fashion.

5.3 **Suspension of Payment.** In the event that the Village becomes credibly informed that any representations of the Company, provided pursuant to subparagraph 5.1, are wholly or partially inaccurate, or in the event that the Consultant is not in compliance with any term or condition of this project agreement, the Village may withhold payment of sums then or in the future otherwise due to the Consultant until the inaccuracy, or other breach of project agreement, and the cause thereof, is corrected to the Village's reasonable satisfaction.

5.4 **Retainage.** ~~The Village reserves the right to withhold retainage in the amount of 10 percent of any payment due to the Consultant until the project is completed. Said retainage may be withheld at the sole discretion of the Village Manager and as security for the successful completion of the Company's duties and responsibilities under the project agreement.~~

5.5 **Final Payment.** Submission of the Company's invoice for final payment and reimbursement shall constitute the Company's representation to the Village that, upon receipt from the Village of the amount invoiced, all obligations of the Consultant to others, including its sub-Consultants, incurred in connection with the project, shall be paid in full. The Consultant shall deliver to the Village all documents requested by the Village evidencing payments to any and all sub-Consultants. Acceptance of final payment shall constitute a waiver of any and all claims against the Village by the Company.

SECTION 6. TERMINATION/SUSPENSION

6.1 **For Cause.** This project agreement may be terminated by either party upon five calendar days written notice to the other party should the other party fail substantially to perform in accordance with its material terms through no fault of the party initiating the termination. In the event that Consultant abandons this project agreement or causes it to be terminated by the Village, the Consultant shall indemnify the Village against any loss pertaining to this termination. In the event that the Consultant is terminated by the Village for cause and it is subsequently determined by a court of competent jurisdiction that the termination was without cause, the termination shall thereupon be deemed a termination for convenience under section 6.2 of this project agreement and the provision of section 6.2 shall apply.

6.2 **For Convenience.** This project agreement may be terminated by the Village for convenience upon 14 days' written notice to the Company. In the event of termination, the Consultant shall incur no further obligations in connection with the project and shall, to the extent possible, terminate any outstanding sub-Consultant obligations. The Consultant shall be compensated for all services performed to the satisfaction of the Village and for reimbursable expenses incurred prior to the date of termination. The Consultant shall promptly submit its invoice for final payment and reimbursement and the invoice shall comply with the provisions of paragraph 5.1 of this project agreement. Under no circumstances shall the Village make any payment to the Consultant for services which have not been performed.

6.3 **Suspension for Convenience.** The Village shall have the right at any time to direct the Consultant to suspend its performance, or any designated part thereof, for any reason whatsoever or without reason, for a cumulative period of up to 30 calendar days. If the suspension is directed by the Village, the Consultant shall immediately comply with same. In the event the Village directs a suspension of performance as provided for herein through no fault of the Company, the Village shall pay to the Consultant its reasonable costs, actually incurred and paid, of demobilization and remobilization, as full compensation for the suspension.

SECTION 7. HOLD HARMLESS AND INDEMNIFICATION OF THE VILLAGE

7.1 The Village shall not be liable for any damages or claims of any type including but not limited to lost profits, special damages, consequential damages or business interruption on account of the Village's decision to terminate this Contract. Additionally, the Consultant agrees that in the event this Contract is terminated for the Village's breach, the damages that Consultant may have against the Village shall be limited to actual damages for a period of thirty (30) days given the fact that this Contract may be terminated by the Village without cause on thirty (30) days' notice.

SECTION 8. AUDIT AND INSPECTION RIGHTS

The Village may, at reasonable times, and for a period of up to three (3) years following the date of final performance of Services by the Consultant under this Agreement, audit, or cause to be audited, those books and records of Consultant which are related to Consultant's performance under this Agreement. Consultant agrees to maintain all such books and records at its principal place of business for a period of three (3) years after final payment is made under this Agreement. The Village may, at reasonable times during the term hereof, inspect Consultant's facilities and perform such inspections, as the Village deems reasonably necessary, to determine whether the services required to be provided by Consultant under this Agreement conform to the terms hereof and/or the terms of the Solicitation Documents, if applicable. Consultant shall make available to the Village all reasonable facilities and assistance to facilitate the performance of inspections by the Village's representatives. All inspections shall be subject to, and made in accordance with, the provisions of the Village Code as same may be amended or supplemented, from time to time.

SECTION 9. FEDERAL AND STATE TAX

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

SECTION 10. INSURANCE

Award of this Contract is contingent upon the receipt of the insurance documents, as required, within ten (10) calendar days after Village notification to Consultant. Certificates of Insurance must be submitted to the Procurement Division, Certificates of Insurance that indicate that insurance coverage has been obtained which meets the requirements as outlined below:

- Comprehensive General Liability - \$1,000,000 combined single limit for each occurrence for bodily injury and property damage – designating the Village as Additional Insured
- Workers Compensation - Statutory Limits
- Automobile Liability - \$1,000,000 per occurrence for all claims arising out of bodily injuries or death and property damages.
- errors and omissions or Consultant liability insurance - \$1,000,000

All insurance policies must be issued by companies authorized to do business under the laws of the State of Florida. The companies must be rated no less than "B+" as to management and no less than "Class V" as to strength by the latest edition of Best's Insurance guide, published by A.M. Best Company, Olwick, New Jersey, or its equivalent, or the companies must hold a valid Florida Certificate of Authority as shown in the latest "List of All Insurance Companies Authorized or Approved to do Business in Florida," issued by the State of Florida Department of Insurance and are members of the Florida Guaranty Fund.

Certificates of Insurance must indicate that for any cancellation of coverage before the expiration date, the issuing insurance carrier will endeavor to mail thirty (30) day written advance notice to the certificate holder. In addition, the Consultant hereby agrees not to modify the insurance coverage without thirty (30) days written advance notice to the Village.

Compliance with the foregoing requirements shall not relieve the Consultant of this liability and obligation under this section or under any other section in the Agreement.

If the insurance certificate is received within the specified time frame but not in the manner prescribed in the Agreement, the Consultant shall be verbally notified of such deficiency and shall have an additional five (5) calendar days to submit a corrected certificate to the Village. If the Consultant fails to submit the required insurance documents in the manner prescribed in the Agreement within fifteen (15) calendar days after Village notification to comply, the Consultant shall be in default of the contractual terms and conditions and award of the Contract will be rescinded, unless such time frame for submission has been extended by the Village.

The Consultant shall be responsible for assuring that the insurance certificates required in conjunction with this Section remain in force for the duration of the contractual period of the Contract, including any and all option years or extension periods that may be granted by the Village. If insurance certificates are scheduled to expire during the contractual period, the Consultant shall be responsible for submitting new or renewed insurance certificates to the Village at a minimum of thirty (30) calendar days in advance of such expiration. In the event that expired certificates are not replaced with new or renewed certificates which cover the contractual period, the Village shall suspend the

Contract until such time as the new or renewed certificates are received by the Village in the manner prescribed herein; provided, however, that this suspended period does not exceed thirty (30) calendar days. Thereafter, the Village may, at its sole discretion, terminate this contract.

SECTION 11. MODIFICATION/AMENDMENT

This writing and exhibits contains the entire Agreement of the parties. No representations were made or relied upon by either party, other than those that are expressly set forth herein. No agent, employee, or other representative of either party is empowered to modify and amend the terms of this Agreement, unless executed in writing with the same formality as this Document. No waiver of any provision of this Agreement shall be valid or enforceable unless such waiver is in writing and signed by the party granting such waiver.

SECTION 12. SEVERABILITY

If any term or provision of this Agreement shall to any extent be held invalid or illegal by a court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby, and each term and provision of this agreement shall be valid and be enforced to the fullest extent permitted by law.

SECTION 13. GOVERNING LAW

This Agreement shall be construed in accordance with and governing by the laws of the State of Florida. Exclusive venue for any litigation shall be in Miami-Dade County, Florida.

SECTION 14. WAIVER

The failure of either party to this Agreement to object to or to take affirmative action with respect to any conduct of the other which is in violation of the terms of this Agreement shall not be construed as a waiver of the violation or breach, or of any future violation, breach or wrongful conduct. No waiver by the Village of any provision of this Agreement shall be deemed to be a waiver of any other provisions hereof or of any subsequent breach by Consultant of the same, or any other provision or the enforcement thereof. The Village's consent to or approval of any act by Consultant requiring the Village's consent or approval shall not be deemed to render unnecessary the obtaining of the Village's consent to or approval of any subsequent consent or approval of Consultant, whether or not similar to the act so consented to or approved.

SECTION 15. INDEPENDENT CONSULTANT

Consultant is and shall remain an independent Consultant and is not an employee or agent of the Village. Services provided by Consultant shall be by employees of Consultant and nothing in this Agreement shall in any way be interpreted or construed to deem said employees to be agents, employees, or representatives of the Village. Consultant shall be responsible for all compensation, tax responsibilities, insurance benefits, other employee benefits, and any other status or rights of its employees during the course of their employment with Consultant. The rights granted to Consultant hereunder are nonexclusive, and the Village reserves the right to enter into agreements with other persons or Consultants to perform services including those hereunder.

SECTION 16. ASSIGNMENT

The Consultant shall not assign, transfer, convey, sublet or otherwise dispose of this Contract, including any or all of its right, title or interest therein, or his or its power to execute such Contract to any person, Consultant or corporation without prior written consent of the Village. The Consultant shall not assign, transfer or pledge any interest in this contract without the prior written consent of the Village; provided, however, that claims for money by the Consultant from the Village under this Contract may be assigned, transferred or pledged to a bank, trust company, or other financial institution without the Village's approval. Written notice of any assignment, transfer or pledge of funds shall be furnished within 10 days by the Consultant to the Village. None of the work or services under this Contract shall be subcontracted unless the Consultant obtains prior written consent from the Village. Approved Sub-Consultant shall be subject to each provision of this Contract and the Consultant shall be responsible and indemnify the Village for all Sub-Consultant's acts, errors or omissions.

SECTION 17. PROHIBITION AGAINST CONTINGENT FEES

Consultant warrants that it has no employees or retained any Consultant or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person(s), Consultant, corporation, individual or Consultant, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement.

SECTION 18. ATTORNEY FEES

Should any dispute arise hereunder, the Village shall be entitled to recover against the Consultant all costs, expenses and attorney's fees incurred by the Village in such dispute, whether or not suit be brought, and such right shall include all of such costs, expenses and attorney's fees through all appeals or other actions. Neither party shall be entitled to prejudgment interest.

SECTION 19. CONFLICT OF INTEREST

Consultant agrees to adhere to and be governed by the Village's Conflict of Interest Ordinance 2-121, et seq, which is incorporated by reference herein as if fully set forth herein, in connection with the Agreement conditions hereunder.

SECTION 20. BINDING EFFECT

All of the terms and provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto, their respective assigns, successors, legal representatives, heirs and beneficiaries, as applicable.

SECTION 21. ENTIRE AGREEMENT

No statements, representations, warranties, either written or oral, from whatever source arising, except as expressly stated in this Agreement, shall have any legal validity between the parties or be binding upon any of them. The parties acknowledge that this Agreement contains the entire understanding and agreement of the parties. No modifications hereof shall be effective unless made in writing and executed by the parties hereto with the same formalities as this Agreement is executed.

SECTION 22. CAPTIONS AND PARAGRAPH HEADINGS

Captions and paragraph headings contained in this Agreement are for convenience and reference only and in no way define, describe, extend or limit the scope and intent of this Agreement, nor the intent of any provisions hereof.

SECTION 23. JOINT PREPARATION

The preparation of this Agreement has been a joint effort of the parties, and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other. It is the parties' further intention that this Agreement be construed liberally to achieve its intent.

SECTION 24. COUNTERPARTS

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same agreement.

SECTION 25. EXHIBITS ARE INCLUSIONARY

All exhibits attached hereto or mentioned herein which contain additional terms shall be deemed incorporated herein by reference. Typewritten or handwritten provisions inserted in this form or attached hereto shall control all printed provisions in conflict therewith.

SECTION 26. SOVEREIGN IMMUNITY AND ATTORNEY FEE'S

The Village does not waive sovereign immunity under 768.28, Florida Statutes, for any claim for breach of contract or for an award of prejudgment interest; provided, however, that in any action arising out of or to enforce this contract, the prevailing party shall be entitled to its reasonable attorney's fees and costs in any state or federal administrative, circuit court and appellate court proceedings. In the event of any litigation arising out of this agreement or project agreement, each party hereby knowingly, irrevocably, voluntarily, and intentionally waives its right to trial by jury.

SECTION 27. PERMITS, LICENSES AND FILING FEES

The Consultant shall procure all permits and licenses, pay all charges and fees, and file all notices as they pertain to the completion of the Consultant's work.

SECTION 28. SAFETY PROVISIONS

The Consultant shall conform to the rules and regulations pertaining to safety established by OSHA and the California Division of Industrial Safety.

SECTION 29. PUBLIC AND EMPLOYEE SAFETY – N/A

~~Whenever the Consultant's operations create a condition hazardous to the public or Village employees, it shall, at its expense and without cost to the Village, furnish, erect and maintain such fences, temporary railings, barricades, lights, signs and other devices and take such other protective measures as are necessary to prevent accidents or damage or injury to the public and employees.~~

SECTION 30. PRESERVATION OF VILLAGE PROPERTY-N/A

~~The Consultant shall provide and install suitable safeguards, approved by the Village, to protect Village property from injury or damage. If Village property is injured or damaged resulting from the Consultant's operations, it shall be replaced or restored at the Consultant's expense. The facilities shall be replaced or restored to a condition as good as when the Consultant began work.~~

SECTION 31. IMMIGRATION ACT OF 1986

The Consultant warrants on behalf of itself and all sub-Consultants engaged for the performance of this work that only persons authorized to work in the United States pursuant to the Immigration Reform and Control Act of 1986 and other applicable laws shall be employed in the performance of the work hereunder.

SECTION 32. CONSULTANT NON-DISCRIMINATION

In the award of subcontracts or in performance of this work, the Consultant agrees that it will not engage in, nor permit such sub-Consultants as it may employ, to engage in discrimination in employment of persons on any basis prohibited by State or Federal law.

SECTION 33. ACCURACY OF SPECIFICATIONS

The specifications for this project are believed by the Village to be accurate and to contain no affirmative misrepresentation or any concealment of fact. Consultants are cautioned to undertake an independent analysis of any test results in the specifications, as Village does not guaranty the accuracy of its interpretation of test results contained in the specifications package. In preparing this agreement, the Consultant shall bear sole responsibility for any misstatements or omissions in the specifications that could easily have been ascertained by examining either the project site or accurate test data in the Village's possession. Failure to so inquire shall cause any such ambiguity or defect to be

construed against the Consultant. An ambiguity or defect shall be considered patent if it is of such a nature that the Consultant, assuming reasonable skill, ability and diligence on its part, knew or should have known of the existence of the ambiguity or defect. Furthermore, failure of the Consultant or sub-Consultants to notify Village in writing of specification defects or ambiguities prior to commencement of the work shall waive any right to assert said defects or ambiguities.

To the extent that these specifications constitute performance specifications, the Village shall not be liable for costs incurred by the successful Consultant to achieve the project's objective or standard beyond the amounts provided in the quote.

In the event that, after awarding the contract, any dispute arises as a result of any actual or alleged ambiguity or defect in the specifications, or any other matter whatsoever, Consultant shall immediately notify the Village in writing, and the Consultant shall continue to perform, irrespective of whether or not the ambiguity or defect is major, material, minor or trivial, and irrespective of whether or not a change order, time extension, or additional compensation has been granted by Village. Failure to provide the hereinbefore described written notice within one (1) working day of Consultant's becoming aware of the facts giving rise to the dispute shall constitute a waiver of the right to assert the causative role of the defect or ambiguity in the plans or specifications concerning the dispute.

SECTION 34. WARRANTY OF AUTHORITY

The signatories to this contract warrant that they are duly authorized by action of their respective Village commission, board of directors or other Village to execute this contract and to bind the parties to the promises, terms, conditions and warranties contained in this contract.

SECTION 35. MISCELLANEOUS PROVISION

In the event a court must interpret any word or provision of this agreement, the word or provision shall not be construed against either party by reason of drafting or negotiating this agreement.

SECTION 36. PERFORMANCE AND MAINTENANCE BONDS- N/A

~~Within ten (10) days of the award of contract, the Consultant shall provide the following surety bonds, each in the amount of one hundred percent (100%) of the contract price, and issued by a properly licensed surety company, listed in the current issue of the Federal Register published by the Department of the Treasury, acceptable to the Village of Palmetto Bay. The bonds should provide that the surety's liability will be co-extensive with the Consultant's liability, and should contain a provision that the surety~~

~~waives notice of changes to the contract, including, but not limited to, changes in the times for performance. For contracts not exceeding \$50,000.00 a performance and maintenance bonds are not required.~~

~~a. A Performance and One-Year Warranty Bond covering the faithful performance of the contract and a one-year warranty on labor from the date of final acceptance of the work.~~

~~b. A Labor Payment Bond~~

(Remainder of Page left blank)

ATTEST:

VILLAGE OF PALMETTO BAY

Missel Arocha, Village Clerk

By: _____
Edward Silva, Village Manager

Date: _____

APPROVED AS TO FORM:

Dexter Lehtinen, Village Attorney

ATTEST:

R.J. Behar and Company, Inc.

WITNESSES: _____

Print Name: _____

Date: _____

Print Name: _____

By: _____
Mr. Marlin Scattolini
President

Exhibit B

CONSULTANT'S QUOTATION PROPOSAL

Project Name: SW 136 Street Bike Lane
 Consultant's Name: R.J. Behar & Company, Inc.
 Project Number:
 Project Length: 1.74 miles

Prepared by:
 Date:

Activity	STAFF HOURS						Staff Hours by Activity	Salary Cost for Activity
	Principal Engineer	Project Manager	Sr. Engineer	Engineer	Designer	Sr. CADD Tech.		
	2%	8%	15%	25%	30%	20%	100%	
1 Roadway Plans	19	76	142	236	283	189	944	\$119,726
2 Pavement Marking & Signing Plans	5	21	40	67	80	54	268	\$33,990
3 Signalization Plans	0	0	0	0	0	0	0	\$0
4 Roadway Lighting Plans	0	0	0	0	0	0	0	\$0
5 Drainage Design, Report & Permit Sketches	4	14	27	45	54	36	180	\$22,829
6 Post Design Services	2	8	14	24	29	19	96	\$12,176
7 Master Plan	0	2	3	5	6	4	20	\$2,537
TOTAL HOURS	30	121	226	377	452	302	1508	\$191,258
	2016 Rates	\$78.12	\$62.92	\$54.47	\$45.67	\$36.50	\$33.00	
	Totals S-H and Cost	\$2,356.10	\$7,590.67	\$12,321.11	\$17,217.59	\$16,512.50	\$9,952.80	\$65,950.87
								\$126.83

TOTAL CONTRACT COST COMPUTATIONS

Total Activity Salary Costs \$65,951

(a) Overhead Additives

(a1) Combined O-H Percent

(a2) Combined O-H Cost

Subtotal (Salary + Overhead)

(b) Operating Margin Percent

(b1) Operating Margin Cost - Fixed Fee

Subtotal (Salary Related Cost)

Multiplier 2.9

Expenses

(a) Misc. & Out-of-Pocket Expenses

(b) Design Survey & Mapping

(c) Geotechnical

(d) Environmental

(e) Landscape Plans

SUBTOTAL

TOTAL LUMP SUM \$240,140.10

TOTAL FEE \$240,140.10

TOTAL LUMP SUM FEE BREAKDOWN BY ACTIVITY	Amount
Roadway Plans	\$119,726.20
Signaling & Marking Plans	\$33,990.06
Signal Plans	\$0.00
Lighting Plans	\$0.00
Drainage Plans	\$22,829.15
Construction Services	\$12,175.55
Master Plan	\$2,536.57
Landscape Plans	\$30,470
Geotechnical	\$16,500
Out-of-Pocket Expenses	\$1,913
Maximum Lump Sum Fee	\$240,140.10

COUNTY PROJ. NO.: N/A F.A.P. N/A DESCRIPTION: SW 136 Street Bike Lane

LENGTH: 1.74 MILES FEET LANES: 2 DIV'D: URBAN:

ITEM	SCALE	BASIS OF ESTIMATE	NO. OF UNITS	NO. OF SHEETS	M-H UNITS	TOTAL M-H	COMMENTS
ROADWAY PLANS							
Key Map	N/A	SHT	1	1	12	12	
Typical Section	N/A	SHT	2	2	16	32	
Summary of Quantities	N/A	SHT	1	1	24	24	
General Notes	N/A	HRS	1	1	12	12	
Plan & Profile	1"=40'	SHT					
Intersection Details		SHT				0	
Intersection Profiles		SHT					
Back of Sidewalk Profiles		HRS	0	0	8	0	Not required
Special Profiles		HRS	1	1	24	24	In the vicinity of curb section
Misc. Construction Details		SHT	2	2	24	48	Various SWPPP
Detour Plans/Maint. of Traffic		HRS	2	2	24	48	
Cross-Sections		SHT					
Quantity Calculations	N/A	HRS	1		80	80	
Cost Estimates	N/A	HRS	2		10	20	60% and final plans
Pavement Design	N/A	HRS	1		4	4	Use Miami Dade County Pavement Section
Project Control Network sheet		HRS	1		1	1	To be provided by Surveyor
Bike Lane Plan & profile	1"=40'	SHT	17	17	18	306	
Bike Lane Cross Sections		SHT	92	25	1.5	138	Every 100'
Geometry Plan		HRS					
Utility Coordination		HRS	9		3	27	9 utilities @ 3 hr per utility
Utility Conference		HRS	1		12	12	1 meetings, 2 people, minutes
Specifications		HRS	1		24	24	
Plateau Intersection Plans		SHT				0	
Meetings and Reviews	N/A	HRS	8		8	64	8 meetings, 2 people 4 hr each - 2 with Village staff and 6 with Miami Dade County
Field Reviews	N/A	HRS	3		8	24	
Miami Dade County Traffic Permit		HRS	1		20	20	Coordination with David Hays
Tree Permit		HRS	1		8	8	Coordination only
FDOT Construction Agreement		HRS	1		16	16	US 1 Intersection
ROADWAY PLANS TOTALS				52		944	

Prepared By: _____ Date: _____

January 16, 2019

Mr. Marlin Scattolini, PE.
R.J. Behar & Company, Inc.
6861 SW 196 Avenue, Suite 302
Pembroke Pines, Florida 33332

Subject: **Proposal for Geotechnical Engineering Services
SW 136th Street Bike Lane
Miami Dade County, FL
AREHNA T.PROP-17-066.REV**

AREHNA Engineering, Inc. (AREHNA) is pleased to present this proposal to provide geotechnical engineering services for the above referenced project. This proposal summarizes our understanding of the project, the scope of our services, as well as our fee and schedule for the services proposed.

Project Description

Based on communications, we understand that the proposed project consists on widening the roadway along SW 136th Street to accommodate 4-foot bike lanes on both sides of the street.

The project limits shall extend from the intersection of SW 136th Street and US-1 to Old Culter Road, approximately 10,500 linear feet.

Scope of Services

The purpose of our geotechnical study is to obtain information on the general subsurface conditions at the proposed bike lane improvement areas. We will also address the groundwater levels if encountered in the borings and estimate the seasonal high levels.

The subsurface materials encountered will then be evaluated with respect to the available project characteristics. In this regard, our deliverable will be a written report along with standard Report of Core Boring Sheets.

The following services will be performed to achieve the above-outlined objectives:

- Coordinate utility location services with you and Sunshine 811.
- Obtain any permits needed to perform the requested services within the existing roadway.
- Assumes subsurface investigation will be performed within the Right-of-Way and time for Off-duty police officers, if needed, is not included.

- Perform a total of 8 Standard Penetration Test (SPT) borings extending to a depth of 15 below the existing ground surface within the areas of improvement along the proposed alignment using Index 601 and/or Index 602. If organic soils are encountered within the borings performed, the extent of the organic soils will be delineated within the proposed alignment or within the areas of widening.
- Perform 16 SFWMD – Open Hole Usual Condition Exfiltration tests to depths of 10 and 15 feet below ground surface. Tests will be performed approximately every 1,500 linear feet.
- Visually classify and stratify soil samples in the laboratory using the AASHTO Classification System and conduct a laboratory testing program as needed for classification and stratification.
- Report the results of the field exploration, lab testing, and engineering analysis. The results of the subsurface exploration will be presented in a written report, signed and sealed by a professional engineer specializing in geotechnical engineering with the data obtained summarized on standard Report of Core Boring Sheets.

Schedule

We typically have a one week backlog prior to starting the fieldwork. The fieldwork should take approximately 7 days to complete. The laboratory testing is anticipated to be completed within one week of the field services. Our signed and sealed report should be available approximately two to three weeks after the completion of the laboratory services.

Service Fee

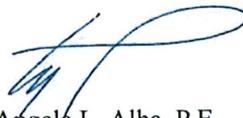
We propose to complete our geotechnical engineering services for a fee of **\$16,500.00**. Please provide us with a written contract between our firms to serve as notice-to-proceed.

We appreciate the opportunity to support you on this project. If you have any questions with regard to this proposal, please do not hesitate to contact us at 954.778.9001.

Sincerely,

AREHNA Engineering, Inc.


Andy Tao, E.I.
Staff Geotechnical Engineer


Angela L. Alba, P.E.
Principal Geotechnical Engineer

**JOINT PARTICIPATION AGREEMENT
BETWEEN THE VILLAGE OF PALMETTO BAY AND MIAMI-DADE COUNTY
SW 136 STREET FROM US-1 TO OLD CUTLER ROAD**

This AGREEMENT made and entered into this 8th day of Nov, 2018, by and between the VILLAGE OF PALMETTO BAY, FLORIDA, a municipal corporation of the STATE OF FLORIDA, hereinafter referred to as the "Village", and MIAMI-DADE COUNTY, a political subdivision of the STATE OF FLORIDA, hereinafter referred to as the "County".

WITNESSETH

WHEREAS, both parties herein wish to facilitate a roadway improvement project in MIAMI-DADE COUNTY, hereinafter referred to as the "Project" described as follows:

Construction of bicycle facilities along SW 136 Street from US-1 to Old Cutler Road; and

WHEREAS, the Village wishes to utilize the resources of the County to contract and construct the Project, subject to the terms and conditions of this Agreement;

NOW, THEREFORE, in consideration of the promises and covenants contained herein, the parties agree:

1. RESPONSIBILITIES OF VILLAGE:

1.1. Design: The Village will secure at its sole expense after the County's execution of this Agreement a qualified firm to provide engineering design and consulting services to develop the construction plans, technical specifications, special provisions, pay items and cost estimates for the Project in accordance with

standard Florida Department of Transportation, County, and/or Village, as applicable, design criteria, to the satisfaction of the County Department of Transportation and Public Works Director. The Village's design consultant shall be made available to County at the Village's expense solely to review shop drawings and perform required post-design services, limited to Project design. The County agrees that the selection, retention and discharge of the design consultant shall be the responsibility of the Village in accordance with applicable laws and Village procedures.

1.2. Financial Provisions – Construction: The Project's construction is currently estimated to cost \$1,700,345.00 (this amount includes a 10% contingency). Subject to the provisions of Section 2.4 of this Agreement, the Village agrees that it will, no later than fourteen (14) calendar days after the County's approval of the contract award recommendation, disburse to the County funding in the amount of FOUR HUNDRED THOUSAND DOLLARS (\$400,000.00) for payment of the Village's share of the estimated construction cost. The County may utilize these funds for payment towards the costs of Project construction. The Village shall incur no liability for any costs in excess of said funding amount unless there has been a duly authorized increase approved by the Village Council. The County shall not be obligated to commence work if the Village's share of the construction cost is in excess of said funding amount. If the bid amount exceeds the current estimated cost of the Project, the County reserves the right to reject all bids and rebid.

The County intends to have its final and complete accounting of all costs incurred in connection with the Village's portion of the work performed hereunder within one hundred eighty (180) calendar days of final payment of construction costs. All construction cost records and accounts shall be subject to audit by a representative of the Village for a period of three (3) years after final close out of the construction. The Village will be notified of the final cost. Both parties agree that in the event final accounting of the total construction costs pursuant to the terms of this agreement is less than the total deposit to date, a refund of the excess will be made by the County to the Village. If the final accounting is not performed within one hundred eighty (180) calendar days, the County is not relieved from its obligation to pay.

1.3. Project Cost Adjustment: The amount contributed by the Village is based on the current estimated costs of the Project. The parties recognize that adjustments to the above referenced cost may be required in the future and that at the options of the parties, amendments may be entered into to revise the funds available for the Project. Provided that there is no increase in the amount of Village funds required as stated in Section 1.2, Amendments may be executed by the Village Manager and the County Mayor or County Mayor's designee without the need for approval by the Village Council and County Commission. Otherwise, further funding commitments shall be subject to the approvals of the parties' respective governing boards.

1.4. Permits and Approvals: During the course of the design, the Village shall obtain all necessary permits, and utility adjustments; and coordinate the review of

construction documents by utilities and permitting agencies. The Village shall make all necessary adjustments as required for approval and/or permitting by those agencies. The Village shall obtain all necessary permits, and utility adjustments for the Project in accordance with applicable state, federal and local laws and ordinances. The Village shall not pay for any permits required by the Miami-Dade County Department of Transportation and Public Works.

2. RESPONSIBILITIES OF COUNTY:

2.1. Public Information and Involvement: The County will implement a Public Involvement Plan (PIP) during the construction of the Project to provide information to property owners, tenants, and area residents, including but not limited to: public meetings, Project documentation and flyers, business signs, directional parking signs, and schedules for major work to be performed in the area. Appropriate investigation of the Project stakeholders will be used to develop the goals and objectives to implement the PIP.

2.2. Publicity: By the acceptance of these funds, the County agrees that the activities funded by this Agreement shall recognize and adequately reference the Village as a funding source.

2.3. Accounting: The County shall at all times maintain separate accounting for the costs of the Project so those costs may be independently verified and audited by the Village, at the request and cost of the Village. The County agrees to permit the Village auditors to inspect the books, records and accounts of the Project for three (3) years after completion of the Project. These records shall be made available to the Village for inspection within five (5) business days upon written

receipt of a written request from the Village.

2.4. Construction: The County shall procure the services of a licensed contractor holding and engineering contractor's license to construct the Project. The County may award the contract through any available lawful means which, in the County's discretion, affords the most competitive price for construction of the Project and which may include, but is not limited to, bid solicitation, request for proposals, the award of a change order on existing County contract(s), or the extension of unit-prices provided in connection with prior competitive bid awards. Notwithstanding any provision to the contrary, the County shall comply with all applicable County contract compliance and oversight measures.

The construction contract shall also contain a requirement that the contractor(s) provide a payment and performance bond at least in the amount and form required by state law naming the Village and the County as joint obligees or joint contracting public entities. The construction contract shall contain a contingency amount to address unforeseen conditions and other required changes which shall not exceed ten percent (10%) of the base amount of the contract.

The Village agrees that the selection, retention and discharge of such contractor shall be the responsibility of the County.

2.5. Claims and Change Orders: The County shall notify the Village's Public Works Director in writing when claims or change orders arise. The County shall also invite the Village to participate in negotiations of these claims and change orders. The Village shall review and make a determination or approval of all change

orders or supplemental agreements, permits, modifications of plans, or other requests for approvals submitted by the County within ten (10) calendar days.

2.6. Construction Administration and Inspection: The County shall exercise all responsibilities of the owner under the construction contract, including construction administration and inspections. The County may delegate this function to an authorized agent or Construction Engineering Inspection (CEI) consultant. The Village's inspector or a consultant of the Village shall have an oversight role in the routine daily inspections for the Project. In the case of a disagreement over the interpretation of the plans, the County's Department of Transportation and Public Works Director, or their designee, shall have final authority. The Village's designated representative and the County's designated representative shall jointly perform the inspection of the Project which immediately precedes substantial completion.

2.7. Right-of-Way: The County shall acquire at its sole expense, any right-of-way that is required to complete the construction of the Project.

2.8. Maintenance: The County shall be solely responsible for maintenance upon completion of construction.

2.9. Coordination with Miami-Dade County Public Schools: Due to potential safety, operational and bus transportation impacts, the County shall coordinate with Miami-Dade Public Schools staff to implement maintenance of traffic measures.

3. COMPLIANCE WITH LAWS: The parties shall comply with applicable federal, state and local laws, codes, ordinances, rules and regulations in performing their respective

duties, responsibilities, and obligations pursuant to this Agreement and with all applicable laws relating to the Project. The parties shall not unlawfully discriminate in the performance of their respective duties under this Agreement.

4. **PROJECT SIGNAGE**: The County shall furnish and install a Project sign in each direction of traffic indicating that this project is being funded in coordination with the Village, in proximity to the start/end of the Project limits. Should Maintenance of Traffic (MOT) signage be required as part of the work, the Project sign shall be placed an appropriate distance before the MOT signage range. The Project signs shall remain in place for the duration of the work or as directed by the Project engineer.
5. **INDEMNIFICATION**: To the extent authorized by Florida law, the Village hereby agrees to indemnify, defend, save and hold harmless the County to the extent of all the limitations included with Section 768.28, Florida Statutes, from all claims, demands, liabilities and suits of any nature whatsoever arising out of, because of or due to the breach of this Agreement by the Village, its agents or employees. It is specifically understood and agreed that this indemnification clause does not cover or indemnify the County for its sole negligence or breach of contract.

To the extent authorized by Florida law, the County hereby agrees to indemnify, defend, save and hold harmless the Village to the extent of all the limitations included in Section 768.28, Florida Statutes, from all claims, demands, liabilities and suits of any nature whatsoever arising out of, because of or due to the breach of this Agreement by the County, its agents or employees. It is specifically understood and agreed that this indemnification clause does not cover or indemnify the Village for its sole negligence or breach of contract.

In the event of breach or non-performance by the persons selected by the County to perform the work, the County shall, upon written request by the Village, assign to the Village any and all of its rights under the affected contract for purposes of the Village's prosecution of claims, actions or causes of action resulting from such breach or non-performance unless the County pursues such claims, actions or causes of action through arbitration, administrative proceeding or lawsuit. The County agrees to cooperate fully with the Village in the prosecution of any such claim or action. Any damage recovered by the Village which is attributable to an expenditure by the County shall be returned to the County by the Village, within sixty (60) business days of receipt.

6. **DISPUTE RESOLUTION, APPLICABLE LAW:** The parties shall resolve any disputes, controversies or claims between them arising out of this Agreement in accordance with the "Florida Governmental Conflict Resolution Act", Chapter 164, Florida Statutes, as amended. This Agreement shall be governed by the laws of the State of Florida. Venue in any proceedings shall be in Miami-Dade, Florida. Each party will bear its own attorney's fees.

7. **ENTIRE AGREEMENT, AMENDMENTS:** This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein 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, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that no modification, amendment or alteration in the terms contained herein shall be

effective unless set forth in writing in accordance with this section. No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by the parties.

8. **JOINT PREPARATION**: The parties acknowledge that they have sought and received whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties from the other.
9. **SEVERANCE**: In the event a portion of this Agreement is found to be invalid by a court of competent jurisdiction, the remaining provisions shall continue to be effective unless the Village or County elect to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) business days after the finding by the court becomes final.

10. NOTICES: Any and all notices required to be given under this Agreement shall be sent by first class mail, addressed as follows:

To the County:

Attention: Department of Transportation and Public Works
c/o Director
Miami-Dade County
701 NW 1 Court, Suite 1700
Miami, Florida 33136
(786) 469-5406

To the Village:

Attention: Edward Silva
Village Manager
Village of Palmetto Bay
9705 East Hibiscus Street
Palmetto Bay, Florida 33157
(305) 259-1234

IN WITNESS WHEREOF, the parties hereto set their hands and official seals the day and year first above written,

ATTEST: MIAMI-DADE COUNTY, FLORIDA,
BY ITS BOARD OF
COUNTY COMMISSIONERS
HARVEY RUVIN
CLERK OF THE BOARD

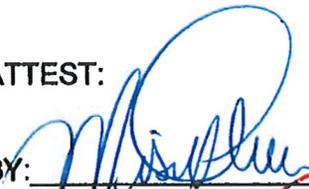
BY:  Deputy Clerk
BY:  County Mayor or County Mayor's Designee



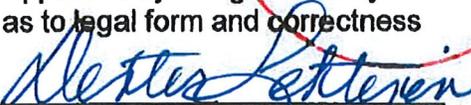
Approved by County Attorney
as to form and legal sufficiency

County Attorney

ATTEST: VILLAGE OF PALMETTO BAY, a municipal
corporation of the State of Florida

BY:  Missy Arocha
Village Clerk
BY:  Edward Silva
Village Manager



(Affix Village Seal)
Approved by Village Attorney
as to legal form and correctness

Village Attorney