

Date: September 1, 2022

To: Honorable Chairman Jose “Pepe” Diaz
and Members, Board of County Commissioners

Agenda Item No. 8(N)(6)

From: Daniella Levine Cava
Mayor



Resolution No. R-825-22

Subject: Contract Award Recommendation for Professional Services Agreements with Three Consulting Firms to Provide General Engineering Services for Department of Transportation and Public Works Projects

Executive Summary

The purpose of this item is to gain approval of the Board of County Commissioners (Board) for execution of professional services agreements for general engineering services with A & P Consulting Transportation Engineers Corp., CTS Engineering, Inc., and Kimley-Horn and Associates, Inc. for a total combined maximum limiting amount of \$15,000,000 for up to five years for the Department of Transportation and Public Works (DTPW). These PSAs are needed in order to acquire outside consultants with the requisite expertise to backfill the work that DTPW cannot perform in-house due to insufficient staffing and quantity of workload. The PSAs will assist with expediting the completion of infrastructure projects that will improve quality of life and enhance safety, such as a wide range of traffic engineering studies, schools and non-motorized vehicles studies and reviews, and development of design plans for intersection improvements.

Recommendation

This item recommends award of three Non-Exclusive Professional Services Agreements (PSAs) under *ISD Project No. E20-DTPW-01* for general engineering services (e.g., traffic engineering studies, Maintenance of Traffic (MOT) and plans review and traffic signal and intersection improvements design) for a combined maximum amount of \$15,000,000 to:

- 1) A & P Consulting Transportation Engineers Corp. (*Contract No. 20190336*)
- 2) CTS Engineering, Inc. (*Contract No. 20190335*)
- 3) Kimley-Horn and Associates, Inc. (*Contract No. 20190337*)

This contract award recommendation is placed for Board review pursuant to Miami-Dade County Code Section 29-124(f). The item may only be considered by the Board if the CITT has forwarded a recommendation to the Board prior to the date scheduled for Board consideration or 45 days have elapsed since the filing with the Clerk of the Board of this award recommendation. If the CITT has not forwarded a recommendation and 45 days have not elapsed since the filing of this item, I will request a withdrawal of the item.

Delegation of Authority

The authority of the County Mayor or County Mayor's designee to execute and implement the PSAs is consistent with those authorities granted under the Code of Miami-Dade County. No additional authority is being requested within the body of the PSAs.

Scope

PROJECT NAME: Professional Services Agreement for Traffic Engineering Services for the Department of Transportation and Public Works

ISD PROJECT NO: E20-DTPW-01

CONTRACT NO: 20190335, 20190336, and 20190337
(IF APPLICABLE)

**PROJECT
DESCRIPTION:**

DTPW requires professional services from general consulting design firms for a wide range of traffic engineering studies, schools and non-motorized vehicles studies and reviews, development of design plans for intersection improvements and traffic signals, traffic impact studies, MOT and design plans review to assist in executing and expediting projects. The qualified professional firms will be responsible for all specific phases of a project through implementation to achieve quality construction documents, cost, and schedule goals. DTPW intends to retain three consultants under separate but identical non-exclusive PSAs. Each PSA will be for five years with a maximum compensation set at \$5,000,000. No minimum amount of work or compensation will be guaranteed to the selected consultants.

Under the PSAs, the consultants will primarily support the Traffic Engineering Division of DTPW with reviewing traffic impact studies as well as reviewing studies conducted by other consultants related to flashing school signals, traffic signals, intersection improvements and traffic calming devices. Consultant services are requested through the issuance of a Work Order specifying the scope of services to be performed and the estimated fees to be paid.

Fiscal Impact/Funding Source

The fiscal impact will be approximately \$15,000,000 over the duration of the PSAs. The work is to be funded by:

FUNDING

SOURCE(S):

<u>SOURCE</u>	<u>PROGRAM NO.</u>	<u>AMOUNT</u>
RIF	20190335	\$5,000,000
SGT*	20190336	\$5,000,000
PTP*	20190337	\$5,000,000
GOB*		
QNIP*		

TOTAL FUNDING: \$15,000,000

*Funding from these sources will be assigned as projects are identified and approved in the upcoming Multi-Year Capital Plan.

If available PTP funding is identified for a specific project, approval from Citizens’ Independent Transportation Trust and the Office of Management and Budget to use this contract will be required.

PTP FUNDING: Yes

GOB FUNDING: Yes

**CAPITAL BUDGET
PROJECTS:**

<u>CAPITAL BUDGET PROJECT #</u>	<u>AMOUNT</u>
<u>DESCRIPTION</u>	

Various Capital Projects, included in the Proposed Budget and Multi-Year Capital Plan. \$15,000,000

Traffic control devices - signalization countywide (P2000000542) various sites: S3000013, S3000021, S3000039, S3000054, S3000081, S3000085, S3000086, S3000089.

Neighborhood infrastructure improvements (P2000000535) site 75640. Additional sites, if required, will have identified the location, description, amount of work to be accomplished and funding information. The combined total cost for all work authorized under this contract shall not exceed the contract award amount.

<u>TYPE</u>	<u>CODE</u>	<u>DESCRIPTION</u>
Prime	3.02B	MINOR HIGHWAY DESIGN
Prime	3.04	TRAFFIC ENGINEERING STUDIES

PROJECT TECHNICAL CERTIFICATION REQUIREMENTS:	Prime	16.00	GENERAL CIVIL ENGINEERING
	Other	10.01	STORMWATER DRAINAGE DESIGN ENGINEERING SERVICES
	Other	11.00	GENERAL STRUCTURAL ENGINEERING
	Other	15.01	LAND SURVEYING
	Other	15.03	UNDERGROUND UTILITY LOCATION
	Other	17.00	ENGINEERING CONSTRUCTION MANAGEMENT
	Other	3.05	TRAFFIC COUNTS
	Other	3.06	TRAFFIC CALMING
	Other	3.07	TRAFFIC SIGNAL TIMING
	Other	3.08	INTELLIGENT TRANSPORTATION SYSTEMS ANALYSIS, DESIGN, AND IMPLEMENTATION
	Other	3.09	SIGNING, PAVEMENT MARKING, AND CHANNELIZATION
	Other	3.10	LIGHTING
	Other	3.11	SIGNALIZATION
	Other	9.01	DRILLING, SUBSURFACE INVESTIGATIONS AND SEISMOGRAPHIC SERVICES
	Other	9.02	GEOTECHNICAL AND MATERIALS ENGINEERING SERVICES
	Other	9.03	CONCRETE AND ASPHALT TESTING SERVICES

**CONTRACT
PERIOD:** Five Years

**CONTINGENCY
PERIOD:** 182 Calendar Days

**OPTION-TO-
RENEW:** No

**ART IN PUBLIC
PLACES:** No

BASE ESTIMATE: \$15,000,000

CONTINGENCY ALLOWANCE: (SECTION 2-8.1 MIAMI-DADE COUNTY CODE)	<u>TYPE</u>	<u>PERCENT</u>	<u>AMOUNT</u>
	PSA	%	\$0.00

**TOTAL
DEDICATED
ALLOWANCE:** \$0.00

PERMIT FEES: \$0.00

**REIMBURSABLE
EXPENSES:** \$0.00

TOTAL AMOUNT: \$15,000,000

**TRACK
RECORD/MONITOR
EXPLANATION:** On November 24, 2020, the Request to Advertise was approved and filed with the Clerk of the Board, and the solicitation was advertised. The First Tier Evaluation meeting took place on May 21, 2021. Negotiations with the firms were held on October 1, 2021.

**INSPECTOR
GENERAL
FEE:
(ORDINANCE 97-
215)** Yes

**MINIMUM
QUALIFICATIONS
EXCEED LEGAL
REQUIREMENTS:
(RESOLUTION NO.
R 1401-97)** The prime consultant must have experience with at least two previously designed projects with similar scope and value. The sub consultants should demonstrate experience with at least two previously designed projects of similar scope and value in their respective categories.

SBD REVIEW COMMITTEE:	MEETING DATE 02/19/2020	SIGNOFF DATE 02/26/2020
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**SBD REVIEW
COMMITTEE
ASSIGNED
CONTRACT
MEASURES:**

<u>TYPE</u>	<u>GOAL</u>	<u>COMMENT</u>
SBE-Architectural & Engineering	21.5%	The SBE-A/E Goal recommendation is 21.5%. Each Agreement will be in the approximate amount of \$5,000,000 and shall remain in effect for a period of five years after its date of execution or until completion of all project phases, whichever occurs last.

**APPLICABLE
WAGES:
(RESOLUTION R-
54-10)**

N/A

**MANDATORY
CLEARING
HOUSE:
(RESOLUTION R-
1395-05)**

N/A

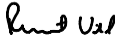
**CONTRACT
MANAGER:**

Yamilet Senespleda, (305) 375- yamilet.senespleda@miamidade.gov
P.E. 2746

**PROJECT
MANAGER:**

William Salazar (305) 375-1913 william.salazar@miamidade.gov

DEPARTMENT

FINANCE: 

Nov 17, 2021
DATE

FUND CODES:

gs


AG

BUDGET
APPROVAL

FUNDS AVAILABLE: 
OMB DIRECTOR

Dec 29, 2021
DATE

APPROVED AS TO
FORM AND LEGAL
SUFFICIENCY:


Bruce Libhaber (Dec 29, 2021 10:21 EST)
OFFICE OF COUNTY ATTORNEY

Dec 29, 2021
DATE

APPROVED
PURSUANT TO
SECTION 2-8.1 OF
THE MIAMI-DADE
COUNTY CODE:


MAYOR'S DESIGNEE

6/17/22
DATE

CLERK:

DATE



MEMORANDUM (Revised)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: September 1, 2022

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 8(N)(6)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Statement of social equity required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☐ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's present ____, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____ to approve
- ☒ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 8(N)(6)
9-1-22

RESOLUTION NO. _____ R-825-22

RESOLUTION APPROVING A CONTRACT AWARD FOR PROFESSIONAL SERVICES AGREEMENTS WITH A & P CONSULTING TRANSPORTATION ENGINEERS CORP., CTS ENGINEERING, INC., AND KIMLEY-HORN AND ASSOCIATES, INC., IN A TOTAL AMOUNT NOT TO EXCEED \$15,000,000.00, TO PROVIDE GENERAL ENGINEERING SERVICES FOR DEPARTMENT OF TRANSPORTATION AND PUBLIC WORKS TRAFFIC ENGINEERING STUDIES, MAINTENANCE OF TRAFFIC AND DESIGN PLANS REVIEW, TRAFFIC SIGNAL, AND INTERSECTION IMPROVEMENTS DESIGN (PROJECT NO. E20-DTPW-01; CONTRACT NOS. 20190335, 20190336 AND 20190337) AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXERCISE ALL PROVISIONS OF THE CONTRACT PURSUANT TO THE COUNTY CODE; AND AUTHORIZING THE USE OF CHARTER COUNTY TRANSPORTATION SURTAX FUNDS FOR THIS PROJECT

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

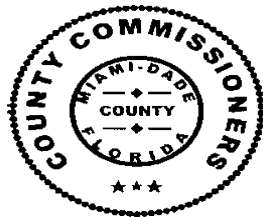
NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board approves the contract award for professional services to A & P Consulting Transportation Engineers Corp., CTS Engineering, Inc., and Kimley-Horn and Associates, Inc., in a total amount not to exceed \$15,000,000.00, for general engineering services for Department of Transportation and Public Works traffic engineering studies, Maintenance of Traffic and design plans review, traffic signal, and intersection improvements design (Project No. E20-DTPW-01; Contract Nos. 20190335, 20190336 and 20190337); authorizes the County Mayor or County Mayor's designee to exercise all provisions of the contract pursuant to the County Code; and authorizes the use of Charter County

Transportation Surtax funds for this project. A copy of the contract document is on file with and available upon request from the Chief of the Capital Improvements Division of the Department of Transportation and Public Works.

The foregoing resolution was offered by Commissioner **Sally A. Heyman**, who moved its adoption. The motion was seconded by Commissioner **Rebeca Sosa** and upon being put to a vote, the vote was as follows:

Jose "Pepe" Diaz, Chairman	aye		
Oliver G. Gilbert, III, Vice-Chairman	aye		
Sen. René García	absent	Keon Hardemon	aye
Sally A. Heyman	aye	Danielle Cohen Higgins	aye
Eileen Higgins	aye	Joe A. Martinez	absent
Kionne L. McGhee	aye	Jean Monestime	aye
Raquel A. Regalado	aye	Rebeca Sosa	aye
Sen. Javier D. Souto	aye		

The Chairperson thereupon declared this resolution duly passed and adopted this 1st day of September, 2022. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this resolution and the filing of this approval with the Clerk of the Board.



MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

Basia Pruna

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

Bruce Libhaber

NON-EXCLUSIVE PROFESSIONAL SERVICE AGREEMENT

DEPARTMENT OF TRANSPORTATION AND PUBLIC WORKS PROFESSIONAL SERVICES FOR TRAFFIC ENGINEERING SERVICES ISD PROJECT NO. E20-DTPW-01; DTPW PROJECTS 20190336

THIS NON-EXCLUSIVE AGREEMENT, [the "Agreement"] by and between Miami-Dade County, a public body corporate and politic, through its governing body, the Board of County Commissioners of Miami-Dade County, Florida [hereinafter sometimes referred to as "COUNTY"], and A & P Consulting Transportation Engineers Corp., a Florida Corporation, hereinafter referred to as the "CONSULTANT".

WITNESSETH:

For and in consideration of the mutual agreements hereinafter contained, the COUNTY hereby retains the CONSULTANT, and the CONSULTANT hereby covenants to provide the professional traffic engineering services under this agreement based upon any task work orders issued hereunder that shall conform to the Scope of Services within the categories of technical certification as determined by the County.

SECTION I - COUNTY OBLIGATIONS

DTPW shall issue written authorization to proceed to the CONSULTANT for each task work order. A rotational methodology will be used by DTPW when assigning work to the Consultant under this contract. The following factors will be evaluated by the staff and presented to the Traffic Division Chief and Traffic Assistant Director for their approval: a) Work load; b) Capabilities of the team; c) Location of the project; d) Schedule; e) Familiarity with the location and infrastructure; f) Conflict of Interest mitigation.

Each consultant may exercise their right to refuse an assigned task work order by submitting a written Right of Refusal letter to the project manager within five (5) business days. In case of emergency, the COUNTY reserves the right to issue oral authorization to the CONSULTANT with the understanding that written confirmation shall follow immediately thereafter.

The CONSULTANT shall submit a proposal upon DTPW's request prior to the issuance of a Notice to Proceed. As stated in Article 1.3, Scope of Services, of the Notice to Professional Services (NTPC) and section II herein. This contract is one (1) of three (3) contracts for Professional Engineering Services required for various DTPW projects. The Total Combined Maximum Limiting Amount of all contracts is not to exceed \$15,000,000. This is a task assignment type agreement. The Department will furnish the Consultant a task work order specifying the services to be performed and the fees to be paid for each project assigned under this agreement. No payment shall be made for the CONSULTANT'S time or services in connection with the preparation of any such proposal.

DTPW shall confer with the CONSULTANT before any Notice to Proceed is issued to discuss and agree upon the scope, time for completion, estimate man hours and fee for services to be rendered pursuant to this Agreement. Fees must be based on negotiated hour rates and multipliers attached under Exhibit A of this agreement.

No minimum amount of work or compensation will be assured to the retained consultant(s). The County reserves the right to re-use the work products of the retained consultant and to retain other consultants to provide the same or similar services at its sole discretion.

SECTION II - PROFESSIONAL SERVICES

Upon receipt of authorization to proceed from DTPW, the CONSULTANT agrees to perform professional services associated with the requested work in accordance with the negotiated terms of the applicable Notice to Proceed. The standard of care applicable to CONSULTANT's services will be the degree of care and skill ordinarily exercised by consultants performing the same or similar services in the same locality at the time the services are provided. Said services are detailed as follow: Schools and Non-Motorized studies and review, development of Design plans for intersection improvements and Traffic Signals, Traffic Impact Studies, MOT and Design Plans review, as needed to assist in executing and expediting projects in the DTPW. The qualified professional firm will be responsible for all specific phases of a project through implementation to achieve quality construction documents, cost and schedule goals.

The Consultant(s) will primarily support the Traffic Engineering Division of DTPW with the following activities: Review traffic impact studies, conduct Traffic Engineering studies as well as review of studies conducted by other and consultants related to flashing school signals, traffic signals, intersection improvements and traffic calming devices.

The scope also includes site plans review as part of the review of plat, zoning application and Municipalities applications county-wide. Perform traffic studies around schools for the installation of traffic control devices, including 15 MPH School Speed Zones, flashing/pedestrian signals, and crosswalks to ensure the public safety. Implement Master Plan Study recommendations and manage design and construction of PTP projects. Develop construction plans, reviews plan prepared by consultants for flashing schools signals, traffic signals, intersection improvements and traffic calming devices and ensures that they comply with current code, ordinances and design standards. Conduct surveys of geometrics and physical characteristics of intersections and roadway segments for the development of construction plans for various traffic control and calming devices. Develop construction plans and cost estimates for the installations of traffic control and calming device including roadway improvements. Provide traffic reviews for all new roadway construction projects and traffic engineering studies. Provide field support to the Construction Division in order to resolve utility conflicts. Provide drafting support in the development of projects by other sections within the Traffic Engineering Division. Provide traffic data collection support for 24-hour and 72-hour traffic counts, turning movement and Pedestrian counts to monitor trends throughout the Miami-Dade County. Provide traffic counts for planning new facilities, timing and refining of signal operation, selection of optimum traffic control, transit plans, development needs, and highway design.

SECTION III - TIME FOR COMPLETION

The services to be rendered by the CONSULTANT for each section of the work shall commence upon receipt of a written Notice to Proceed from DTPW subsequent to the execution of this Agreement, and shall be completed within the time stated in the Notice to Proceed.

A reasonable extension of time shall be granted in the event there is a delay on the part of the COUNTY in fulfilling its part of the Agreement or should a Force Majeure, as defined in Section IV hereof, render performance of the CONSULTANT's duties impossible. Such extensions of time shall not be cause for any claim by the CONSULTANT for extra compensation and the rates described in Exhibit A shall continue to apply.

SECTION IV - FORCE MAJEURE

Force Majeure shall mean an act of God, epidemic, lightening, earthquake, fire, explosion, hurricane, flood or similar occurrence, strike, an act of a public enemy, or blockade, insurrection, riot, general arrest or restraint of government and people, civil disturbance or similar occurrence, which has had or may reasonably be expected to have a material adverse effect on the rights and obligations under this Agreement, and which, by the exercise of due diligence, such parties shall not have been able to avoid. Such acts or events DO NOT INCLUDE inclement weather (except as noted above) or the acts or omissions of subconsultants/subcontractors, third-party consultants/contractor, material men, suppliers, or their subcontractors, unless such acts or omissions are otherwise encompassed by the definition set forth above.

No party hereto shall be liable for its failure to carry out its obligations under the Agreement during a period when such party is rendered unable, in whole or in part, by Force Majeure to carry out such obligations, but the obligation of the party or parties relying on such Force Majeure shall be suspended only during the continuance of any inability so caused and for no longer period of said unexpected or uncontrollable event, and such cause shall, so far as possible, be remedied with all reasonable dispatch.

It is further agreed and stipulated that the right of any party hereto excuse its failure to perform by reason of Force Majeure shall be conditioned upon such party giving, to the other party or parties, written notice of its assertion that a Force Majeure delay has commenced within ten (10) working days after such commencement, unless there exists good cause for failure to give such notice, in which event, failure to give such notice shall not prejudice any party's right to justify any non-performance as caused by Force Majeure unless the failure to give timely notice causes material prejudice to the other party or parties.

SECTION V - COMPENSATION

The COUNTY agrees to pay, and the CONSULTANT agrees to accept, for services rendered pursuant to this Agreement, fees and other compensation computed in accordance with one or a combination of the methods outlined below:

A. Lump Sum Fee

The fee for any requested portion of work may, at the option of the COUNTY, be a lump sum mutually agreed upon by the COUNTY and the CONSULTANT and stated in the written Notice to Proceed. Lump sum fees may or may not include reimbursable expenses.

B. Reimbursable Expenses

The CONSULTANT shall be compensated for certain work-related expenditures not covered by fees for engineering services, provided such expenditures are previously authorized by DTPW. Reimbursable expenses may include:

1. Expenses for document reproduction, rental of specialized equipment, and purchase of special instruments necessary for the efficient performance of the work, provided that such instruments remain the property of the COUNTY upon work completion. These expenses shall be reimbursed on a direct cost basis.

C. Fee as a Multiple of Direct Salary Cost and Fixed Hourly Rate

1. The fee for engineering services rendered by the CONSULTANT's personnel shall be computed based on the direct salary cost, as reported to the Internal Revenue Service, for the time of said personnel engaged directly in the work, times a negotiated multiplier, as shown in Exhibit A attached.

This fee shall constitute full compensation to the CONSULTANT for costs incurred in the performance of the work such as overhead, fringe benefits, operating margin and all other costs not covered by reimbursable expenses.

2. The CONSULTANT shall be compensated at the flat rate shown in Exhibit A for the time of principals engaged directly in the work. This rate shall not be subject to the negotiated multiplier and shall be applied to the time spent on requested work by the following principals:

Antonio G. Acosta, P.E.

SECTION VI - ADDITIONAL SERVICES

Additional services for the performance of this agreement will need to be negotiated and approved by DTPW Director.

SECTION VII - METHODS OF PAYMENT

The COUNTY agrees to make monthly or partial payments to the CONSULTANT for all authorized work performed during the previous calendar month or other mutually agreed invoicing period. The CONSULTANT agrees to provide copies of any records reasonably necessary to substantiate payment requests to the COUNTY. Payments shall be made in accordance with the following methods:

A. Estimated Professional Fees and/or Reimbursable Expenses

1. The CONSULTANT shall submit duly certified invoices to DTPW. Each invoice shall be referenced to the particular Notice to Proceed, which authorized the services performed and/or expenses incurred.
2. The amount of invoices submitted shall be comprised of the amounts due for all services performed and/or reimbursable expenses incurred to date in connection with authorized work, less previous payments. The amounts due for professional services and/or reimbursable expenses shall be calculated in accordance with Subsections V-B and V-C hereof, respectively. Invoiced reimbursable expenses must be substantiated by copies of receipts and other documentation as necessary.

B. Lump Sum Fee

1. The CONSULTANT shall submit duly certified invoices to DTPW. Each invoice shall be referenced to the particular Notice to Proceed, which authorized the services performed.
2. The amount due of invoices submitted shall be calculated by applying the percentage of the total work completed to date to the authorized lump sum and subtracting any previous payments.

SECTION VIII - SCHEDULE OF WORK

The COUNTY shall have the sole right to determine on which units or sections of the work the CONSULTANT shall precede and in what order. Written Notices to Proceed issued by DTPW shall cover in detail the scope, time for completion and compensation for the engineering services requested in connection with each unit or section of work.

SECTION IX - RIGHT OF DECISIONS

All services shall be performed by the CONSULTANT to the satisfaction of DTPW who shall decide all questions, difficulties, and disputes of whatever nature which may arise under or by reason of this Agreement, the prosecution and fulfillment of the services hereunder, and the character, quality, amount and value thereof. DTPW's decisions upon all claims, questions and disputes shall be final, conclusive and binding upon the parties hereto unless such determination is clearly arbitrary or unreasonable. In the event the CONSULTANT does not concur with the decisions of DTPW, the CONSULTANT shall present any such objections in writing to the County Mayor. The County Mayor or the County Mayor's Designee and the CONSULTANT shall abide by the decisions of the County Mayor. This paragraph does not constitute a waiver of any party's right to proceed in a court of competent jurisdiction.

SECTION X - OWNERSHIP OF DOCUMENTS

All reports, tracings, plans, specifications, maps contract documents, and/or other data developed by the CONSULTANT pursuant to this Agreement shall become the property of the COUNTY without restrictions or limitations upon their use and shall be made available by the CONSULTANT at any time upon request by the COUNTY. Reuse of such data by the COUNTY for any purpose other than that for which prepared shall be at the COUNTY's sole risk. When each individual section of work requested pursuant to this Agreement is completed, all of the above data shall be delivered to DTPW.

SECTION XI - REUSE OF DOCUMENTS

The CONSULTANT may reuse data from other sections of the work included in this Agreement provided irrelevant material is deleted. DTPW shall not accept any reused data containing an excess of irrelevant material, which has no connection with the applicable work.

SECTION XII - NOTICES

Any notices, reports or other written communications from the CONSULTANTS shall be considered delivered when posted by certified mail or delivered in person to DTPW. Any notices, reports or other communications from the COUNTY to the CONSULTANT shall be considered delivered when posted by certified mail to the CONSULTANT at the last address left on file with the COUNTY or delivered in person to said CONSULTANT or the CONSULTANT's authorized representative.

SECTION XIII - ABANDONMENT

In the event the COUNTY causes abandonment, cancellation, or suspension of the tasks of parts thereof, the CONSULTANT shall be compensated for all services rendered consistent with terms of this Agreement up to the time the CONSULTANT receives written notification of such abandonment, cancellation or suspension. This compensation shall be determined on the basis of the percentage of the total services, which have been performed at the time the CONSULTANT receives such notice. In the event partial payment has been made for professional services not performed, the CONSULTANT shall return such sums to the COUNTY within ten (10) days after receipt of written notice that such sums are due.

SECTION XIV - AUDIT RIGHTS

The COUNTY reserves the right to audit the records of the CONSULTANT related to this Agreement at any time during the prosecution of the work included herein and for a period of one (1) year after final payment is made. The CONSULTANT agrees to provide copies of any records reasonably necessary to substantiate payment requests to the COUNTY. CONSULTANT is also responsible to assist the COUNTY on audits performed by FDOT.

SECTION XV – SUBCONTRACTING

The CONSULTANT shall not subcontract any work under this Agreement without the written consent of DTPW. When applicable and upon receipt of such consent in writing, the CONSULTANT shall cause the names of the firms responsible for the major portions of each separate specialty of the work to be inserted in the pertinent documents or data. No assignments or transfer of work will be allowed.

SECTION XVI – WARRANTY

The CONSULTANT warrants that no companies or persons, other than bona fide employees working solely for the CONSULTANT or the CONSULTANT's COUNTY authorized subconsultants, have been retained or employed to solicit or secure this Agreement or have been paid or guaranteed payment of any fees, commissions, percentage fees, gifts or any other considerations contingent upon or resulting from the award or making of this Agreement. The CONSULTANT also warrants that no COUNTY personnel, whether full-time or part-time employees, has or shall be retained or employed in any capacity, by the CONSULTANT or the CONSULTANT's county approved subconsultants, to accomplish the work contemplated under the terms of this Agreement. For breach or violation of this warranty, DTPW shall have the right to annul this Agreement without liability.

SECTION XVII - TERMINATION OF AGREEMENT

It is expressly understood and agreed that DTPW may terminate this Agreement, in total or in part, without cause or penalty, by thirty (30) days prior written notification or by declining to issue Notices to Proceed, as provided in Section VIII; in which event the COUNTY's sole obligation to the CONSULTANT shall be payment, in accordance with Section V - Compensation, for those units or sections of work previously authorized. Such payment shall be determined on the basis of the hours or percentage of work performed by the CONSULTANT up to the time of termination. In the event partial payment has been made for professional services not performed, the CONSULTANT shall return such sums to the COUNTY within ten (10) days after receipt of written notice that said sums are due. Upon such termination, the

COUNTY may, without penalty or other obligation to the CONSULTANT, elect to employ other persons to perform the same or similar services.

SECTION XVIII - DURATION OF AGREEMENT

This Agreement shall remain in full force and effect for a period of five (5) calendar years, excluding the warranty administration period (although actual completion of the services hereunder may extend beyond such term) or until depletion of the funds allocated to pay for the cost of said services, whichever occurs first, unless terminated by mutual consent of the parties hereto or as provided in Section XIII, Section XVI, Section XVII, Section XIX, Section XXIII, and Section XXV hereof.

SECTION XIX - DEFAULT

In the event the CONSULTANT fails to comply with the provisions of this Agreement, DTPW may declare the CONSULTANT in default by thirty (30) days prior written notification. In such event, the CONSULTANT shall only be compensated for any completed professional services. In the event partial payment has been made for such professional services not completed, the CONSULTANT shall return such sums to the COUNTY within ten (10) days after notice that said sums are due. The CONSULTANT shall not be compensated on a percentage of the professional services, which have been performed at the time DTPW declares a default. In the event Miami-Dade County prevails in litigation to enforce the provisions of this Agreement, Miami-Dade County shall be compensated by the CONSULTANT for reasonable attorney's fees and court costs.

SECTION XX - INDEMNIFICATION AND INSURANCE

The CONSULTANT shall indemnify and hold harmless the County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including, but not limited to, attorneys' fees and costs of defense, which the County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings to the extent arising out of, relating to or resulting from the negligence, recklessness, or intentional wrongful conduct of the CONSULTANT or its employees, agents, servants, partners principals or subcontractors. The CONSULTANT shall pay damages and losses in connection therewith, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon, to the extent of CONSULTANT's negligence, recklessness, or intentional wrongful conduct. The CONSULTANT expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by CONSULTANT shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents and instrumentalities as herein provided.

The Consultant shall furnish to the Department of Transportation and Public Works, 111 NW 1st Street, Miami, Florida 33128, Certificate(s) of Insurance which indicate that insurance coverage has been obtained which meets the requirements as outlined below:

- A. Worker's Compensation Insurance for all employees of the Contractor as required by Florida Statute 440 including coverage under the U.S. Longshoremen and Harbor Workers' Act (USLH) and/or Jones Act as applicable for any activities on or about navigable water.

- B. Commercial General Liability in an amount not less than \$1,000,000 per occurrence, and \$2,000,000 in the aggregate. **Miami-Dade County must be shown as an additional insured with respect to this coverage.**
- C. Automobile Liability Insurance covering all owned, non-owned and hired vehicles used in connection with the work, in an amount not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage.
- D. Professional Liability Insurance in an amount not less than \$2,000,000 per claim.

All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida, with the following qualifications:

The company must be rated no less than "A-" as to management, and no less than "Class VII" as to financial strength, by Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the County Risk Management Division.

or

The company 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 Financial Services.

CERTIFICATE HOLDER MUST READ:

**MIAMI-DADE COUNTY
111 NW 1st STREET
SUITE 2340
MIAMI, FL 33128**

SECTION XXI - CERTIFICATION OF WAGE RATES

In accordance with Florida Statute 287.055, the CONSULTANT hereby certifies and warrants that wage rates and other factual unit costs, as submitted in support of the compensation provided in Section V, are accurate, complete and current as of the date of this Agreement. It is further agreed that said compensation should be adjusted to exclude any significant costs where the COUNTY shall determine that the price of services was increased due to inaccurate, incomplete or unclear wage rates or other factual unit costs. All such compensation adjustments shall be made within one (1) year from the date of final billing or acceptance of the work by the COUNTY, whichever is later.

SECTION XXII - ORDINANCES

The CONSULTANT agrees to abide and be governed by the COUNTY ordinances which may have a bearing on the work contemplated hereunder, including but not necessarily limited to: Ordinance No. 72-82 (Conflict of Interest), Ordinance No. 77-13 (Financial Disclosure), Ordinance No. 82-37 (Affirmative Action Plan), Ordinance No. 90-133 (Disclosure of Ownership, Collective Bargaining Agreement, and Employee Wages, Health Care Benefits, Race, National Origin and Gender), Ordinance No. 91-142 (Family Leave) as amended by Ordinance No. 92-91, Superseded by Ordinance No. 93-118 (Family Leave Act),

Ordinance No. 92-15 (Drug-Free Workplace), Resolution No. R-1049-93 (Affirmative Action Plan Furtherance and Compliance), Ordinance No. 94-73 (Value-Analysis and Life Cycle Costing) and Resolution No. R-385-95 (policy prohibiting contracts with firms violating the A.D.A. and other laws prohibiting discrimination on the basis of disability), Ordinance No. 95-178 (Entity must submit Delinquent or Currently due Fees or Taxes Affidavit), Ordinance No. 97-35 (policy of Fair Subcontracting Practices), Ordinance No. 98-30 (County Contractors Employment and Procurement Practices), Ordinance No. 97-104 (Listing of Subcontractors and Suppliers on County Contracts), Ordinance No. 97-172 (Ordinance amending Section 2-10.4 requiring certain agreements for Professional Architectural and Engineering Services to include Value Analysis as part of the base scope of services), Resolution No. R-1206-97, superseded by Resolution No. R-702-98 (Project Fresh Start-Welfare-to-Work Initiative, Welfare Reform), Ordinance No. 98-106 (Cone of Silence), which are incorporated herein by reference, as if fully set forth herein, in connection with the CONSULTANT's obligations hereunder.

The CONSULTANT shall comply with the financial disclosure requirements of Ordinance No. 77-13 by having on file or filing within thirty (30) days of the execution of this Agreement one of the following with the Miami-Dade County Elections Department, P.O. Box 01224, Miami, FL 33101:

- A. A source of income statement
- B. A current certified financial statement
- C. A copy of the CONSULTANT's current Federal Income Tax Return

SECTION XXIII – INSPECTOR GENERAL REVIEWS

Independent Private Sector Inspector General Reviews: Pursuant to Miami-Dade County Administrative Order 3-20, the County has the right to retain the services of an Independent Private Sector Inspector General (hereinafter "IPSIG"), whenever the County deems it appropriate to do so. Upon written notice from the County, the selected proposer(s) shall make available to the IPSIG retained by the County, all requested records and documentation pertaining to any Agreement entered into as a result of this NTPC for inspection and reproduction. The County shall be responsible for the payment of these IPSIG services, and under no circumstance shall the selected proposer's prices and any changes thereto approved by the County, be inclusive of any charges relating to these IPSIG services.

Miami-Dade County Inspector General Review: According to Section 2-1076 of the Code of Miami-Dade County, Miami-Dade County has established the Office of the Inspector General which may, on a random basis, perform audits on all County contracts, throughout the duration of said contracts. The cost of the audit pertaining to any Agreement entered as a result of this NTPC shall be one quarter (1/4) of one (1) percent of the total contract amount which cost shall be included in the total contract amount. The audit cost will be deducted from progress payments made to the County. The audit cost shall also be included in all change orders and all contract renewals and extensions.

SECTION XXIV - AFFIRMATIVE ACTION

The CONSULTANT's Affirmative Action Plan submitted pursuant to Ordinance 82-37, as approved by Miami-Dade County, Small Business Development Division and any approved update thereof, are hereby incorporated as contractual obligations of the CONSULTANT to Miami-Dade County hereunder. The CONSULTANT shall undertake and perform the affirmative actions specified herein. DTPW may declare the CONSULTANT in default of this agreement for failure of the CONSULTANT to comply with the requirements of this paragraph.

SECTION XXV - DISABILITY NONDISCRIMINATION

The CONSULTANT's attention is directed to the Miami-Dade County Resolution No. R-385-95. Pursuant to this resolution, the CONSULTANT is required to submit the Disability Nondiscrimination Affidavit attesting that the CONSULTANT complies with the requirements of the Americans with Disabilities Act (ADA) of 1990 and other laws prohibiting discrimination on the basis of disability. DTPW may declare the CONSULTANT in default of this agreement should a post contract violation of any of the acts occur.

SECTION XXVI - PROMPT PAYMENT OF SMALL BUSINESS SUBCONSULTANTS

The CONSULTANT's attention is directed to the Miami-Dade County Ordinance No. 94-40, providing for expedited payments to small businesses by the Miami-Dade County agencies and the Public Health Trust; creating dispute resolution procedures for payment of the Miami-Dade County and Public Health Trust obligation; and requiring the prime contractor to issue prompt payments, and have the same dispute resolution procedures as Miami-Dade County, for all small business subcontractors. Failure of the prime contractor to issue prompt payment to small businesses, or to adhere to its dispute resolution procedures, may be cause for suspension, termination, and debarment, in accordance with the terms of Miami-Dade County contract or Public Health Trust contract and debarment procedures of the Miami-Dade County.

SECTION XXVII - ENTIRETY OF AGREEMENT

This writing embodies the entire agreement and understanding between the parties hereto, and there are no other agreements and understandings, oral or written with reference to the subject matter hereof that are not merged herein and superseded hereby.

No alteration, change, or modification of the terms of this Agreement shall be valid unless made in writing, signed by both parties hereto, and approved by the Board of Miami-Dade County Commissioners.

SECTION XXVIII – E-VERIFY

CONSULTANT shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the CONSULTANT during the term of the Agreement; and shall expressly require any subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify.

SECTION XXIV – PERFORMANCE EVALUATION

At the end of the contract, DTPW will evaluate the CONSULTANT's performance. This evaluation will become public record.

SECTION XXXIV CONSULTANT'S ROLE DURING CONSTRUCTION

CONSULTANT shall be responsible for post design services, construction request for information (RFI) and design plan modifications and changes due to construction field conflicts.

This Agreement, regardless of where executed, shall be governed by and construed according to the laws of the State of Florida, and venue shall be in Miami-Dade County, Florida.

IN WITNESS WHEREOF the parties hereto have executed these presents this ____ day of _____ 20__.

ATTEST:

For the Board of County Commissioners, Miami-Dade County, Florida

HARVEY RUVIN, CLERK OF THE BOARD

By: _____

By: _____

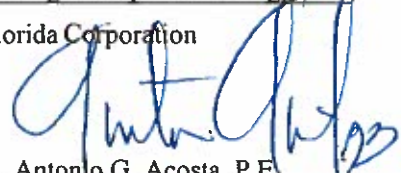
County Mayor

ATTEST:

A&P Consulting Transportation Engineers, Corp.

A Florida Corporation

By: 
Corporate Secretary


By: Antonio G. Acosta, P.E.
President

(CORPORATE SEAL)

Approved as to form and legal sufficiency.

Assistant County Attorney

EXHIBIT A

A & P Consulting Transportation Engineers Corp. Hourly Rates and Multiplier (E20-DTPW-01)	
POSITION	HOURLY RATE
Principal	\$165.00
Sr. Project Mgr.	\$90.00
Project Mgr.	\$62.50
Engineer 2	\$56.00
Engineer 1	\$47.00
Engineer Intern	\$32.00
Sr. Design	\$47.30
Engineering Tech	\$28.43
CADD/Computer Tech	\$28.43
CEI St. Project Eng/Prog Admin	\$80.00
Clerical/Secretary	\$27.00
Sr. Inspector	\$42.00

Multipliers:

Field/MDC Multiplier = 2.4

Home Office Multiplier = 2.85

NON-EXCLUSIVE PROFESSIONAL SERVICE AGREEMENT

DEPARTMENT OF TRANSPORTATION AND PUBLIC WORKS PROFESSIONAL SERVICES FOR TRAFFIC ENGINEERING SERVICES ISD PROJECT NO. E20-DTPW-01; DTPW PROJECTS 20190335

THIS NON-EXCLUSIVE AGREEMENT, [the "Agreement"] by and between Miami-Dade County, a public body corporate and politic, through its governing body, the Board of County Commissioners of Miami-Dade County, Florida [hereinafter sometimes referred to as "COUNTY"], and CTS ENGINEERING, INC., a Florida Corporation, hereinafter referred to as the "CONSULTANT".

WITNESSETH:

For and in consideration of the mutual agreements hereinafter contained, the COUNTY hereby retains the CONSULTANT, and the CONSULTANT hereby covenants to provide the professional traffic engineering services under this agreement based upon any task work orders issued hereunder that shall conform to the Scope of Services within the categories of technical certification as determined by the County.

SECTION I - COUNTY OBLIGATIONS

DTPW shall issue written authorization to proceed to the CONSULTANT for each task work order. A rotational methodology will be used by DTPW when assigning work to the Consultant under this contract. The following factors will be evaluated by the staff and presented to the Traffic Division Chief and Traffic Assistant Director for their approval: a) Work load; b) Capabilities of the team; c) Location of the project; d) Schedule; e) Familiarity with the location and infrastructure; f) Conflict of Interest mitigation.

Each consultant may exercise their right to refuse an assigned task work order by submitting a written Right of Refusal letter to the project manager within five (5) business days. In case of emergency, the COUNTY reserves the right to issue oral authorization to the CONSULTANT with the understanding that written confirmation shall follow immediately thereafter.

The CONSULTANT shall submit a proposal upon DTPW's request prior to the issuance of a Notice to Proceed. As stated in Article 1.3, Scope of Services, of the Notice to Professional Services (NTPC) and section II herein. This contract is one (1) of three (3) contracts for Professional Engineering Services required for various DTPW projects. The Total Combined Maximum Limiting Amount of all contracts is not to exceed \$15,000,000. This is a task assignment type agreement. The Department will furnish the Consultant a task work order specifying the services to be performed and the fees to be paid for each project assigned under this agreement. No payment shall be made for the CONSULTANT'S time or services in connection with the preparation of any such proposal.

DTPW shall confer with the CONSULTANT before any Notice to Proceed is issued to discuss and agree upon the scope, time for completion, estimate man hours and fee for services to be rendered pursuant to this Agreement. Fees must be based on negotiated hour rates and multipliers attached under Exhibit A of this agreement.

No minimum amount of work or compensation will be assured to the retained consultant(s). The County reserves the right to re-use the work products of the retained consultant and to retain other consultants to provide the same or similar services at its sole discretion.

SECTION II - PROFESSIONAL SERVICES

Upon receipt of authorization to proceed from DTPW, the CONSULTANT agrees to perform professional services associated with the requested work in accordance with the negotiated terms of the applicable Notice to Proceed. The standard of care applicable to CONSULTANT's services will be the degree of care and skill ordinarily exercised by consultants performing the same or similar services in the same locality at the time the services are provided. Said services are detailed as follow: Schools and Non-Motorized studies and review, development of Design plans for intersection improvements and Traffic Signals, Traffic Impact Studies, MOT and Design Plans review, as needed to assist in executing and expediting projects in the DTPW. The qualified professional firm will be responsible for all specific phases of a project through implementation to achieve quality construction documents, cost and schedule goals.

The Consultant(s) will primarily support the Traffic Engineering Division of DTPW with the following activities: Review traffic impact studies, conduct Traffic Engineering studies as well as review of studies conducted by other and consultants related to flashing school signals, traffic signals, intersection improvements and traffic calming devices.

The scope also includes site plans review as part of the review of plat, zoning application and Municipalities applications county-wide. Perform traffic studies around schools for the installation of traffic control devices, including 15 MPH School Speed Zones, flashing/pedestrian signals, and crosswalks to ensure the public safety. Implement Master Plan Study recommendations and manage design and construction of PTP projects. Develop construction plans, reviews plan prepared by consultants for flashing schools signals, traffic signals, intersection improvements and traffic calming devices and ensures that they comply with current code, ordinances and design standards. Conduct surveys of geometrics and physical characteristics of intersections and roadway segments for the development of construction plans for various traffic control and calming devices. Develop construction plans and cost estimates for the installations of traffic control and calming device including roadway improvements. Provide traffic reviews for all new roadway construction projects and traffic engineering studies. Provide field support to the Construction Division in order to resolve utility conflicts. Provide drafting support in the development of projects by other sections within the Traffic Engineering Division. Provide traffic data collection support for 24-hour and 72-hour traffic counts, turning movement and Pedestrian counts to monitor trends throughout the Miami-Dade County. Provide traffic counts for planning new facilities, timing and refining of signal operation, selection of optimum traffic control, transit plans, development needs, and highway design.

SECTION III - TIME FOR COMPLETION

The services to be rendered by the CONSULTANT for each section of the work shall commence upon receipt of a written Notice to Proceed from DTPW subsequent to the execution of this Agreement, and shall be completed within the time stated in the Notice to Proceed.

A reasonable extension of time shall be granted in the event there is a delay on the part of the COUNTY in fulfilling its part of the Agreement or should a Force Majeure, as defined in Section IV hereof, render performance of the CONSULTANT's duties impossible. Such extensions of time shall not be cause for any claim by the CONSULTANT for extra compensation and the rates described in Exhibit A shall continue to apply.

SECTION IV - FORCE MAJEURE

Force Majeure shall mean an act of God, epidemic, lightening, earthquake, fire, explosion, hurricane, flood or similar occurrence, strike, an act of a public enemy, or blockade, insurrection, riot, general arrest or restraint of government and people, civil disturbance or similar occurrence, which has had or may reasonably be expected to have a material adverse effect on the rights and obligations under this Agreement, and which, by the exercise of due diligence, such parties shall not have been able to avoid. Such acts or events DO NOT INCLUDE inclement weather (except as noted above) or the acts or omissions of subconsultants/subcontractors, third-party consultants/contractor, material men, suppliers, or their subcontractors, unless such acts or omissions are otherwise encompassed by the definition set forth above.

No party hereto shall be liable for its failure to carry out its obligations under the Agreement during a period when such party is rendered unable, in whole or in part, by Force Majeure to carry out such obligations, but the obligation of the party or parties relying on such Force Majeure shall be suspended only during the continuance of any inability so caused and for no longer period of said unexpected or uncontrollable event, and such cause shall, so far as possible, be remedied with all reasonable dispatch.

It is further agreed and stipulated that the right of any party hereto excuse its failure to perform by reason of Force Majeure shall be conditioned upon such party giving, to the other party or parties, written notice of its assertion that a Force Majeure delay has commenced within ten (10) working days after such commencement, unless there exists good cause for failure to give such notice, in which event, failure to give such notice shall not prejudice any party's right to justify any non-performance as caused by Force Majeure unless the failure to give timely notice causes material prejudice to the other party or parties.

SECTION V - COMPENSATION

The COUNTY agrees to pay, and the CONSULTANT agrees to accept, for services rendered pursuant to this Agreement, fees and other compensation computed in accordance with one or a combination of the methods outlined below:

A. Lump Sum Fee

The fee for any requested portion of work may, at the option of the COUNTY, be a lump sum mutually agreed upon by the COUNTY and the CONSULTANT and stated in the written Notice to Proceed. Lump sum fees may or may not include reimbursable expenses.

B. Reimbursable Expenses

The CONSULTANT shall be compensated for certain work-related expenditures not covered by fees for engineering services, provided such expenditures are previously authorized by DTPW. Reimbursable expenses may include:

1. Expenses for document reproduction, rental of specialized equipment, and purchase of special instruments necessary for the efficient performance of the work, provided that such instruments remain the property of the COUNTY upon work completion. These expenses shall be reimbursed on a direct cost basis.

C. Fee as a Multiple of Direct Salary Cost and Fixed Hourly Rate

1. The fee for engineering services rendered by the CONSULTANT's personnel shall be computed based on the direct salary cost, as reported to the Internal Revenue Service, for the time of said personnel engaged directly in the work, times a negotiated multiplier, as shown in Exhibit A attached.

This fee shall constitute full compensation to the CONSULTANT for costs incurred in the performance of the work such as overhead, fringe benefits, operating margin and all other costs not covered by reimbursable expenses.

2. The CONSULTANT shall be compensated at the flat rate shown in Exhibit A for the time of principals engaged directly in the work. This rate shall not be subject to the negotiated multiplier and shall be applied to the time spent on requested work by the following principals:

Sheng Yang, P.E.

SECTION VI - ADDITIONAL SERVICES

Additional services for the performance of this agreement will need to be negotiated and approved by DTPW Director.

SECTION VII - METHODS OF PAYMENT

The COUNTY agrees to make monthly or partial payments to the CONSULTANT for all authorized work performed during the previous calendar month or other mutually agreed invoicing period. The CONSULTANT agrees to provide copies of any records reasonably necessary to substantiate payment requests to the COUNTY. Payments shall be made in accordance with the following methods:

A. Estimated Professional Fees and/or Reimbursable Expenses

1. The CONSULTANT shall submit duly certified invoices to DTPW. Each invoice shall be referenced to the particular Notice to Proceed, which authorized the services performed and/or expenses incurred.
2. The amount of invoices submitted shall be comprised of the amounts due for all services performed and/or reimbursable expenses incurred to date in connection with authorized work, less previous payments. The amounts due for professional services and/or reimbursable expenses shall be calculated in accordance with Subsections V-B and V-C hereof, respectively. Invoiced reimbursable expenses must be substantiated by copies of receipts and other documentation as necessary.

B. Lump Sum Fee

1. The CONSULTANT shall submit duly certified invoices to DTPW. Each invoice shall be referenced to the particular Notice to Proceed, which authorized the services performed.
2. The amount due of invoices submitted shall be calculated by applying the percentage of the total work completed to date to the authorized lump sum and subtracting any previous payments.

SECTION VIII - SCHEDULE OF WORK

The COUNTY shall have the sole right to determine on which units or sections of the work the CONSULTANT shall precede and in what order. Written Notices to Proceed issued by DTPW shall cover in detail the scope, time for completion and compensation for the engineering services requested in connection with each unit or section of work.

SECTION IX - RIGHT OF DECISIONS

All services shall be performed by the CONSULTANT to the satisfaction of DTPW who shall decide all questions, difficulties, and disputes of whatever nature which may arise under or by reason of this Agreement, the prosecution and fulfillment of the services hereunder, and the character, quality, amount and value thereof. DTPW's decisions upon all claims, questions and disputes shall be final, conclusive and binding upon the parties hereto unless such determination is clearly arbitrary or unreasonable. In the event the CONSULTANT does not concur with the decisions of DTPW, the CONSULTANT shall present any such objections in writing to the County Mayor. The County Mayor or the County Mayor's Designee and the CONSULTANT shall abide by the decisions of the County Mayor. This paragraph does not constitute a waiver of any party's right to proceed in a court of competent jurisdiction.

SECTION X - OWNERSHIP OF DOCUMENTS

All reports, tracings, plans, specifications, maps contract documents, and/or other data developed by the CONSULTANT pursuant to this Agreement shall become the property of the COUNTY without restrictions or limitations upon their use and shall be made available by the CONSULTANT at any time upon request by the COUNTY. Reuse of such data by the COUNTY for any purpose other than that for which prepared shall be at the COUNTY's sole risk. When each individual section of work requested pursuant to this Agreement is completed, all of the above data shall be delivered to DTPW.

SECTION XI - REUSE OF DOCUMENTS

The CONSULTANT may reuse data from other sections of the work included in this Agreement provided irrelevant material is deleted. DTPW shall not accept any reused data containing an excess of irrelevant material, which has no connection with the applicable work.

SECTION XII - NOTICES

Any notices, reports or other written communications from the CONSULTANTS shall be considered delivered when posted by certified mail or delivered in person to DTPW. Any notices, reports or other communications from the COUNTY to the CONSULTANT shall be considered delivered when posted by certified mail to the CONSULTANT at the last address left on file with the COUNTY or delivered in person to said CONSULTANT or the CONSULTANT's authorized representative.

SECTION XIII - ABANDONMENT

In the event the COUNTY causes abandonment, cancellation, or suspension of the tasks of parts thereof, the CONSULTANT shall be compensated for all services rendered consistent with terms of this Agreement up to the time the CONSULTANT receives written notification of such abandonment, cancellation or suspension. This compensation shall be determined on the basis of the percentage of the total services, which have been performed at the time the CONSULTANT receives such notice. In the event partial payment has been made for professional services not performed, the CONSULTANT shall return such sums to the COUNTY within ten (10) days after receipt of written notice that such sums are due.

SECTION XIV - AUDIT RIGHTS

The COUNTY reserves the right to audit the records of the CONSULTANT related to this Agreement at any time during the prosecution of the work included herein and for a period of one (1) year after final payment is made. The CONSULTANT agrees to provide copies of any records reasonably necessary to substantiate payment requests to the COUNTY. CONSULTANT is also responsible to assist the COUNTY on audits performed by FDOT.

SECTION XV - SUBCONTRACTING

The CONSULTANT shall not subcontract any work under this Agreement without the written consent of DTPW. When applicable and upon receipt of such consent in writing, the CONSULTANT shall cause the names of the firms responsible for the major portions of each separate specialty of the work to be inserted in the pertinent documents or data. No assignments or transfer of work will be allowed.

SECTION XVI - WARRANTY

The CONSULTANT warrants that no companies or persons, other than bona fide employees working solely for the CONSULTANT or the CONSULTANT's COUNTY authorized subconsultants, have been retained or employed to solicit or secure this Agreement or have been paid or guaranteed payment of any fees, commissions, percentage fees, gifts or any other considerations contingent upon or resulting from the award or making of this Agreement. The CONSULTANT also warrants that no COUNTY personnel, whether full-time or part-time employees, has or shall be retained or employed in any capacity, by the CONSULTANT or the CONSULTANT's county approved subconsultants, to accomplish the work contemplated under the terms of this Agreement. For breach or violation of this warranty, DTPW shall have the right to annul this Agreement without liability.

SECTION XVII - TERMINATION OF AGREEMENT

It is expressly understood and agreed that DTPW may terminate this Agreement, in total or in part, without cause or penalty, by thirty (30) days prior written notification or by declining to issue Notices to Proceed, as provided in Section VIII; in which event the COUNTY's sole obligation to the CONSULTANT shall be payment, in accordance with Section V - Compensation, for those units or sections of work previously authorized. Such payment shall be determined on the basis of the hours or percentage of work performed by the CONSULTANT up to the time of termination. In the event partial payment has been made for professional services not performed, the CONSULTANT shall return such sums to the COUNTY within ten (10) days after receipt of written notice that said sums are due. Upon such termination, the

COUNTY may, without penalty or other obligation to the CONSULTANT, elect to employ other persons to perform the same or similar services.

SECTION XVIII - DURATION OF AGREEMENT

This Agreement shall remain in full force and effect for a period of five (5) calendar years, excluding the warranty administration period (although actual completion of the services hereunder may extend beyond such term) or until depletion of the funds allocated to pay for the cost of said services, whichever occurs first, unless terminated by mutual consent of the parties hereto or as provided in Section XIII, Section XVI, Section XVII, Section XIX, Section XIII, and Section XXV hereof.

SECTION XIX - DEFAULT

In the event the CONSULTANT fails to comply with the provisions of this Agreement, DTPW may declare the CONSULTANT in default by thirty (30) days prior written notification. In such event, the CONSULTANT shall only be compensated for any completed professional services. In the event partial payment has been made for such professional services not completed, the CONSULTANT shall return such sums to the COUNTY within ten (10) days after notice that said sums are due. The CONSULTANT shall not be compensated on a percentage of the professional services, which have been performed at the time DTPW declares a default. In the event Miami-Dade County prevails in litigation to enforce the provisions of this Agreement, Miami-Dade County shall be compensated by the CONSULTANT for reasonable attorney's fees and court costs.

SECTION XX - INDEMNIFICATION AND INSURANCE

The CONSULTANT shall indemnify and hold harmless the County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including, but not limited to, attorneys' fees and costs of defense, which the County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings to the extent arising out of, relating to or resulting from the negligence, recklessness, or intentional wrongful conduct of the CONSULTANT or its employees, agents, servants, partners principals or subcontractors. The CONSULTANT shall pay damages and losses in connection therewith, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon, to the extent of CONSULTANT's negligence, recklessness, or intentional wrongful conduct. The CONSULTANT expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by CONSULTANT shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents and instrumentalities as herein provided.

The Consultant shall furnish to the Department of Transportation and Public Works, 111 NW 1st Street, Miami, Florida 33128, Certificate(s) of Insurance which indicate that insurance coverage has been obtained which meets the requirements as outlined below:

- A. Worker's Compensation Insurance for all employees of the Contractor as required by Florida Statute 440 including coverage under the U.S. Longshoremen and Harbor Workers' Act (USLH) and/or Jones Act as applicable for any activities on or about navigable water.

- B. Commercial General Liability in an amount not less than \$1,000,000 per occurrence, and \$2,000,000 in the aggregate. **Miami-Dade County must be shown as an additional insured with respect to this coverage.**
- C. Automobile Liability Insurance covering all owned, non-owned and hired vehicles used in connection with the work, in an amount not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage.
- D. Professional Liability Insurance in an amount not less than \$2,000,000 per claim.

All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida, with the following qualifications:

The company must be rated no less than "A-" as to management, and no less than "Class VII" as to financial strength, by Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the County Risk Management Division.

or

The company 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 Financial Services.

CERTIFICATE HOLDER MUST READ:

**MIAMI-DADE COUNTY
111 NW 1st STREET
SUITE 2340
MIAMI, FL 33128**

SECTION XXI - CERTIFICATION OF WAGE RATES

In accordance with Florida Statute 287.055, the CONSULTANT hereby certifies and warrants that wage rates and other factual unit costs, as submitted in support of the compensation provided in Section V, are accurate, complete and current as of the date of this Agreement. It is further agreed that said compensation should be adjusted to exclude any significant costs where the COUNTY shall determine that the price of services was increased due to inaccurate, incomplete or unclear wage rates or other factual unit costs. All such compensation adjustments shall be made within one (1) year from the date of final billing or acceptance of the work by the COUNTY, whichever is later.

SECTION XXII - ORDINANCES

The CONSULTANT agrees to abide and be governed by the COUNTY ordinances which may have a bearing on the work contemplated hereunder, including but not necessarily limited to: Ordinance No. 72-82 (Conflict of Interest), Ordinance No. 77-13 (Financial Disclosure), Ordinance No. 82-37 (Affirmative Action Plan), Ordinance No. 90-133 (Disclosure of Ownership, Collective Bargaining Agreement, and Employee Wages, Health Care Benefits, Race, National Origin and Gender), Ordinance No. 91-142 (Family Leave) as amended by Ordinance No. 92-91, Superseded by Ordinance No. 93-118 (Family Leave Act),

Ordinance No. 92-15 (Drug-Free Workplace), Resolution No. R-1049-93 (Affirmative Action Plan Furtherance and Compliance), Ordinance No. 94-73 (Value-Analysis and Life Cycle Costing) and Resolution No. R-385-95 (policy prohibiting contracts with firms violating the A.D.A. and other laws prohibiting discrimination on the basis of disability), Ordinance No. 95-178 (Entity must submit Delinquent or Currently due Fees or Taxes Affidavit), Ordinance No. 97-35 (policy of Fair Subcontracting Practices), Ordinance No. 98-30 (County Contractors Employment and Procurement Practices), Ordinance No. 97-104 (Listing of Subcontractors and Suppliers on County Contracts), Ordinance No. 97-172 (Ordinance amending Section 2-10.4 requiring certain agreements for Professional Architectural and Engineering Services to include Value Analysis as part of the base scope of services), Resolution No. R-1206-97, superseded by Resolution No. R-702-98 (Project Fresh Start-Welfare-to-Work Initiative, Welfare Reform), Ordinance No. 98-106 (Cone of Silence), which are incorporated herein by reference, as if fully set forth herein, in connection with the CONSULTANT's obligations hereunder.

The CONSULTANT shall comply with the financial disclosure requirements of Ordinance No. 77-13 by having on file or filing within thirty (30) days of the execution of this Agreement one of the following with the Miami-Dade County Elections Department, P.O. Box 01224, Miami, FL 33101:

- A. A source of income statement
- B. A current certified financial statement
- C. A copy of the CONSULTANT's current Federal Income Tax Return

SECTION XXIII – INSPECTOR GENERAL REVIEWS

Independent Private Sector Inspector General Reviews: Pursuant to Miami-Dade County Administrative Order 3-20, the County has the right to retain the services of an Independent Private Sector Inspector General (hereinafter "IPSIG"), whenever the County deems it appropriate to do so. Upon written notice from the County, the selected proposer(s) shall make available to the IPSIG retained by the County, all requested records and documentation pertaining to any Agreement entered into as a result of this NTPC for inspection and reproduction. The County shall be responsible for the payment of these IPSIG services, and under no circumstance shall the selected proposer's prices and any changes thereto approved by the County, be inclusive of any charges relating to these IPSIG services.

Miami-Dade County Inspector General Review: According to Section 2-1076 of the Code of Miami-Dade County, Miami-Dade County has established the Office of the Inspector General which may, on a random basis, perform audits on all County contracts, throughout the duration of said contracts. The cost of the audit pertaining to any Agreement entered as a result of this NTPC shall be one quarter (1/4) of one (1) percent of the total contract amount which cost shall be included in the total contract amount. The audit cost will be deducted from progress payments made to the County. The audit cost shall also be included in all change orders and all contract renewals and extensions.

SECTION XXIV - AFFIRMATIVE ACTION

The CONSULTANT's Affirmative Action Plan submitted pursuant to Ordinance 82-37, as approved by Miami-Dade County, Small Business Development Division and any approved update thereof, are hereby incorporated as contractual obligations of the CONSULTANT to Miami-Dade County hereunder. The CONSULTANT shall undertake and perform the affirmative actions specified herein. DTPW may declare the CONSULTANT in default of this agreement for failure of the CONSULTANT to comply with the requirements of this paragraph.

SECTION XXV - DISABILITY NONDISCRIMINATION

The CONSULTANT's attention is directed to the Miami-Dade County Resolution No. R-385-95. Pursuant to this resolution, the CONSULTANT is required to submit the Disability Nondiscrimination Affidavit attesting that the CONSULTANT complies with the requirements of the Americans with Disabilities Act (ADA) of 1990 and other laws prohibiting discrimination on the basis of disability. DTPW may declare the CONSULTANT in default of this agreement should a post contract violation of any of the acts occur.

SECTION XXVI - PROMPT PAYMENT OF SMALL BUSINESS SUBCONSULTANTS

The CONSULTANT's attention is directed to the Miami-Dade County Ordinance No. 94-40, providing for expedited payments to small businesses by the Miami-Dade County agencies and the Public Health Trust; creating dispute resolution procedures for payment of the Miami-Dade County and Public Health Trust obligation; and requiring the prime contractor to issue prompt payments, and have the same dispute resolution procedures as Miami-Dade County, for all small business subcontractors. Failure of the prime contractor to issue prompt payment to small businesses, or to adhere to its dispute resolution procedures, may be cause for suspension, termination, and debarment, in accordance with the terms of Miami-Dade County contract or Public Health Trust contract and debarment procedures of the Miami-Dade County.

SECTION XXVII - ENTIRETY OF AGREEMENT

This writing embodies the entire agreement and understanding between the parties hereto, and there are no other agreements and understandings, oral or written with reference to the subject matter hereof that are not merged herein and superseded hereby.

No alteration, change, or modification of the terms of this Agreement shall be valid unless made in writing, signed by both parties hereto, and approved by the Board of Miami-Dade County Commissioners.

SECTION XXVIII - E-VERIFY

CONSULTANT shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the CONSULTANT during the term of the Agreement; and shall expressly require any subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify.

SECTION XXIV - PERFORMANCE EVALUATION

At the end of the contract, DTPW will evaluate the CONSULTANT's performance. This evaluation will become public record.

SECTION XXXIV CONSULTANT'S ROLE DURING CONSTRUCTION

CONSULTANT shall be responsible for post design services, construction request for information (RFI) and design plan modifications and changes due to construction field conflicts.

This Agreement, regardless of where executed, shall be governed by and construed according to the laws of the State of Florida, and venue shall be in Miami-Dade County, Florida.

IN WITNESS WHEREOF the parties hereto have executed these presents this ____ day of _____ 20 ____.

ATTEST:

For the Board of County Commissioners, Miami-Dade County, Florida

HARVEY RUVIN, CLERK OF THE BOARD

By: _____

By: _____

County Mayor

ATTEST:

_____CTS Engineering_____, Inc.

A Florida Corporation

By: C. D. Dali

Corporate Secretary

By: 

President

(CORPORATE SEAL)

Approved as to form and legal sufficiency.

Assistant County Attorney

EXHIBIT A

CTS Engineering, Inc. Hourly Rates and Multiplier (E20-DTPW-01)	
POSITION	HOURLY RATE
Principal	\$165.00
Sr. Project Mgr.	\$90.00
Project Mgr.	\$63.80
Engineer 2	\$58.00
Engineer 1	\$47.25
Engineer Intern	\$34.25
Sr. Design	\$46.00
Engineering Tech	\$28.43
CADD/Computer Tech	\$27.50
CEI St. Project Eng/Prog Admin	\$80.00
Clerical/Secretary	\$27.00
Sr. Inspector	\$42.00

Multipliers:

Field/MDC Multiplier = 2.4

Home Office Multiplier = 2.85

NON-EXCLUSIVE PROFESSIONAL SERVICE AGREEMENT

DEPARTMENT OF TRANSPORTATION AND PUBLIC WORKS PROFESSIONAL SERVICES FOR TRAFFIC ENGINEERING SERVICES ISD PROJECT NO. E20-DTPW-01; DTPW PROJECTS 20190337

THIS NON-EXCLUSIVE AGREEMENT, [the "Agreement"] by and between Miami-Dade County, a public body corporate and politic, through its governing body, the Board of County Commissioners of Miami-Dade County, Florida [hereinafter sometimes referred to as "COUNTY"], and the Kimley-Horn and Associates, Inc., a Florida Corporation, hereinafter referred to as the "CONSULTANT".

WITNESSETH:

For and in consideration of the mutual agreements hereinafter contained, the COUNTY hereby retains the CONSULTANT, and the CONSULTANT hereby covenants to provide the professional traffic engineering services under this agreement based upon any task work orders issued hereunder that shall conform to the Scope of Services within the categories of technical certification as determined by the County.

SECTION I - COUNTY OBLIGATIONS

DTPW shall issue written authorization to proceed to the CONSULTANT for each task work order. A rotational methodology will be used by DTPW when assigning work to the Consultant under this contract. The following factors will be evaluated by the staff and presented to the Traffic Division Chief and Traffic Assistant Director for their approval: a) Work load; b) Capabilities of the team; c) Location of the project; d) Schedule; e) Familiarity with the location and infrastructure; f) Conflict of Interest mitigation.

Each consultant may exercise their right to refuse an assigned task work order by submitting a written Right of Refusal letter to the project manager within five (5) business days. In case of emergency, the COUNTY reserves the right to issue oral authorization to the CONSULTANT with the understanding that written confirmation shall follow immediately thereafter.

The CONSULTANT shall submit a proposal upon DTPW's request prior to the issuance of a Notice to Proceed. As stated in Article 1.3, Scope of Services, of the Notice to Professional Services (NTPC) and section II herein. This contract is one (1) of three (3) contracts for Professional Engineering Services required for various DTPW projects. The Total Combined Maximum Limiting Amount of all contracts is not to exceed \$15,000,000. This is a task assignment type agreement. The Department will furnish the Consultant a task work order specifying the services to be performed and the fees to be paid for each project assigned under this agreement. No payment shall be made for the CONSULTANT'S time or services in connection with the preparation of any such proposal.

DTPW shall confer with the CONSULTANT before any Notice to Proceed is issued to discuss and agree upon the scope, time for completion, estimate man hours and fee for services to be rendered pursuant to this Agreement. Fees must be based on negotiated hour rates and multipliers attached under Exhibit A of this agreement.

No minimum amount of work or compensation will be assured to the retained consultant(s). The County reserves the right to re-use the work products of the retained consultant and to retain other consultants to provide the same or similar services at its sole discretion.

SECTION II - PROFESSIONAL SERVICES

Upon receipt of authorization to proceed from DTPW, the CONSULTANT agrees to perform professional services associated with the requested work in accordance with the negotiated terms of the applicable Notice to Proceed. The standard of care applicable to CONSULTANT's services will be the degree of care and skill ordinarily exercised by consultants performing the same or similar services in the same locality at the time the services are provided. Said services are detailed as follow: Schools and Non-Motorized studies and review, development of Design plans for intersection improvements and Traffic Signals, Traffic Impact Studies, MOT and Design Plans review, as needed to assist in executing and expediting projects in the DTPW. The qualified professional firm will be responsible for all specific phases of a project through implementation to achieve quality construction documents, cost and schedule goals.

The Consultant(s) will primarily support the Traffic Engineering Division of DTPW with the following activities: Review traffic impact studies, conduct Traffic Engineering studies as well as review of studies conducted by other and consultants related to flashing school signals, traffic signals, intersection improvements and traffic calming devices.

The scope also includes site plans review as part of the review of plat, zoning application and Municipalities applications county-wide. Perform traffic studies around schools for the installation of traffic control devices, including 15 MPH School Speed Zones, flashing/pedestrian signals, and crosswalks to ensure the public safety. Implement Master Plan Study recommendations and manage design and construction of PTP projects. Develop construction plans, reviews plan prepared by consultants for flashing schools signals, traffic signals, intersection improvements and traffic calming devices and ensures that they comply with current code, ordinances and design standards. Conduct surveys of geometrics and physical characteristics of intersections and roadway segments for the development of construction plans for various traffic control and calming devices. Develop construction plans and cost estimates for the installations of traffic control and calming device including roadway improvements. Provide traffic reviews for all new roadway construction projects and traffic engineering studies. Provide field support to the Construction Division in order to resolve utility conflicts. Provide drafting support in the development of projects by other sections within the Traffic Engineering Division. Provide traffic data collection support for 24-hour and 72-hour traffic counts, turning movement and Pedestrian counts to monitor trends throughout the Miami-Dade County. Provide traffic counts for planning new facilities, timing and refining of signal operation, selection of optimum traffic control, transit plans, development needs, and highway design.

SECTION III - TIME FOR COMPLETION

The services to be rendered by the CONSULTANT for each section of the work shall commence upon receipt of a written Notice to Proceed from DTPW subsequent to the execution of this Agreement, and shall be completed within the time stated in the Notice to Proceed.

A reasonable extension of time shall be granted in the event there is a delay on the part of the COUNTY in fulfilling its part of the Agreement or should a Force Majeure, as defined in Section IV hereof, render performance of the CONSULTANT's duties impossible. Such extensions of time shall not be cause for any claim by the CONSULTANT for extra compensation and the rates described in Exhibit A shall continue to apply.

SECTION IV - FORCE MAJEURE

Force Majeure shall mean an act of God, epidemic, lightening, earthquake, fire, explosion, hurricane, flood or similar occurrence, strike, an act of a public enemy, or blockade, insurrection, riot, general arrest or restraint of government and people, civil disturbance or similar occurrence, which has had or may reasonably be expected to have a material adverse effect on the rights and obligations under this Agreement, and which, by the exercise of due diligence, such parties shall not have been able to avoid. Such acts or events DO NOT INCLUDE inclement weather (except as noted above) or the acts or omissions of subconsultants/subcontractors, third-party consultants/contractor, material men, suppliers, or their subcontractors, unless such acts or omissions are otherwise encompassed by the definition set forth above.

No party hereto shall be liable for its failure to carry out its obligations under the Agreement during a period when such party is rendered unable, in whole or in part, by Force Majeure to carry out such obligations, but the obligation of the party or parties relying on such Force Majeure shall be suspended only during the continuance of any inability so caused and for no longer period of said unexpected or uncontrollable event, and such cause shall, so far as possible, be remedied with all reasonable dispatch.

It is further agreed and stipulated that the right of any party hereto excuse its failure to perform by reason of Force Majeure shall be conditioned upon such party giving, to the other party or parties, written notice of its assertion that a Force Majeure delay has commenced within ten (10) working days after such commencement, unless there exists good cause for failure to give such notice, in which event, failure to give such notice shall not prejudice any party's right to justify any non-performance as caused by Force Majeure unless the failure to give timely notice causes material prejudice to the other party or parties.

SECTION V - COMPENSATION

The COUNTY agrees to pay, and the CONSULTANT agrees to accept, for services rendered pursuant to this Agreement, fees and other compensation computed in accordance with one or a combination of the methods outlined below:

A. Lump Sum Fee

The fee for any requested portion of work may, at the option of the COUNTY, be a lump sum mutually agreed upon by the COUNTY and the CONSULTANT and stated in the written Notice to Proceed. Lump sum fees may or may not include reimbursable expenses.

B. Reimbursable Expenses

The CONSULTANT shall be compensated for certain work-related expenditures not covered by fees for engineering services, provided such expenditures are previously authorized by DTPW. Reimbursable expenses may include:

1. Expenses for document reproduction, rental of specialized equipment, and purchase of special instruments necessary for the efficient performance of the work, provided that such instruments remain the property of the COUNTY upon work completion. These expenses shall be reimbursed on a direct cost basis.

C. Fee as a Multiple of Direct Salary Cost and Fixed Hourly Rate

1. The fee for engineering services rendered by the CONSULTANT's personnel shall be computed based on the direct salary cost, as reported to the Internal Revenue Service, for the time of said personnel engaged directly in the work, times a negotiated multiplier, as shown in Exhibit A attached.

This fee shall constitute full compensation to the CONSULTANT for costs incurred in the performance of the work such as overhead, fringe benefits, operating margin and all other costs not covered by reimbursable expenses.

2. The CONSULTANT shall be compensated at the flat rate shown in Exhibit A for the time of principals engaged directly in the work. This rate shall not be subject to the negotiated multiplier and shall be applied to the time spent on requested work by the following principals:

David C. Campbell, P.E.

SECTION VI - ADDITIONAL SERVICES

Additional services for the performance of this agreement will need to be negotiated and approved by DTPW Director.

SECTION VII - METHODS OF PAYMENT

The COUNTY agrees to make monthly or partial payments to the CONSULTANT for all authorized work performed during the previous calendar month or other mutually agreed invoicing period. The CONSULTANT agrees to provide copies of any records reasonably necessary to substantiate payment requests to the COUNTY. Payments shall be made in accordance with the following methods:

A. Estimated Professional Fees and/or Reimbursable Expenses

1. The CONSULTANT shall submit duly certified invoices to DTPW. Each invoice shall be referenced to the particular Notice to Proceed, which authorized the services performed and/or expenses incurred.
2. The amount of invoices submitted shall be comprised of the amounts due for all services performed and/or reimbursable expenses incurred to date in connection with authorized work, less previous payments. The amounts due for professional services and/or reimbursable expenses shall be calculated in accordance with Subsections V-B and V-C hereof, respectively. Invoiced reimbursable expenses must be substantiated by copies of receipts and other documentation as necessary.

B. Lump Sum Fee

1. The CONSULTANT shall submit duly certified invoices to DTPW. Each invoice shall be referenced to the particular Notice to Proceed, which authorized the services performed.
2. The amount due of invoices submitted shall be calculated by applying the percentage of the total work completed to date to the authorized lump sum and subtracting any previous payments.

SECTION VIII - SCHEDULE OF WORK

The COUNTY shall have the sole right to determine on which units or sections of the work the CONSULTANT shall precede and in what order. Written Notices to Proceed issued by DTPW shall cover in detail the scope, time for completion and compensation for the engineering services requested in connection with each unit or section of work.

SECTION IX - RIGHT OF DECISIONS

All services shall be performed by the CONSULTANT to the satisfaction of DTPW who shall decide all questions, difficulties, and disputes of whatever nature which may arise under or by reason of this Agreement, the prosecution and fulfillment of the services hereunder, and the character, quality, amount and value thereof. DTPW's decisions upon all claims, questions and disputes shall be final, conclusive and binding upon the parties hereto unless such determination is clearly arbitrary or unreasonable. In the event the CONSULTANT does not concur with the decisions of DTPW, the CONSULTANT shall present any such objections in writing to the County Mayor. The County Mayor or the County Mayor's Designee and the CONSULTANT shall abide by the decisions of the County Mayor. This paragraph does not constitute a waiver of any party's right to proceed in a court of competent jurisdiction.

SECTION X - OWNERSHIP OF DOCUMENTS

All reports, tracings, plans, specifications, maps contract documents, and/or other data developed by the CONSULTANT pursuant to this Agreement shall become the property of the COUNTY without restrictions or limitations upon their use and shall be made available by the CONSULTANT at any time upon request by the COUNTY. Reuse of such data by the COUNTY for any purpose other than that for which prepared shall be at the COUNTY's sole risk. When each individual section of work requested pursuant to this Agreement is completed, all of the above data shall be delivered to DTPW.

SECTION XI - REUSE OF DOCUMENTS

The CONSULTANT may reuse data from other sections of the work included in this Agreement provided irrelevant material is deleted. DTPW shall not accept any reused data containing an excess of irrelevant material, which has no connection with the applicable work.

SECTION XII - NOTICES

Any notices, reports or other written communications from the CONSULTANTS shall be considered delivered when posted by certified mail or delivered in person to DTPW. Any notices, reports or other communications from the COUNTY to the CONSULTANT shall be considered delivered when posted by certified mail to the CONSULTANT at the last address left on file with the COUNTY or delivered in person to said CONSULTANT or the CONSULTANT's authorized representative.

SECTION XIII - ABANDONMENT

In the event the COUNTY causes abandonment, cancellation, or suspension of the tasks of parts thereof, the CONSULTANT shall be compensated for all services rendered consistent with terms of this Agreement up to the time the CONSULTANT receives written notification of such abandonment, cancellation or suspension. This compensation shall be determined on the basis of the percentage of the total services, which have been performed at the time the CONSULTANT receives such notice. In the event partial payment has been made for professional services not performed, the CONSULTANT shall return such sums to the COUNTY within ten (10) days after receipt of written notice that such sums are due.

SECTION XIV - AUDIT RIGHTS

The COUNTY reserves the right to audit the records of the CONSULTANT related to this Agreement at any time during the prosecution of the work included herein and for a period of one (1) year after final payment is made. The CONSULTANT agrees to provide copies of any records reasonably necessary to substantiate payment requests to the COUNTY. CONSULTANT is also responsible to assist the COUNTY on audits performed by FDOT.

SECTION XV – SUBCONTRACTING

The CONSULTANT shall not subcontract any work under this Agreement without the written consent of DTPW. When applicable and upon receipt of such consent in writing, the CONSULTANT shall cause the names of the firms responsible for the major portions of each separate specialty of the work to be inserted in the pertinent documents or data. No assignments or transfer of work will be allowed.

SECTION XVI – WARRANTY

The CONSULTANT warrants that no companies or persons, other than bona fide employees working solely for the CONSULTANT or the CONSULTANT's COUNTY authorized subconsultants, have been retained or employed to solicit or secure this Agreement or have been paid or guaranteed payment of any fees, commissions, percentage fees, gifts or any other considerations contingent upon or resulting from the award or making of this Agreement. The CONSULTANT also warrants that no COUNTY personnel, whether full-time or part-time employees, has or shall be retained or employed in any capacity, by the CONSULTANT or the CONSULTANT's county approved subconsultants, to accomplish the work contemplated under the terms of this Agreement. For breach or violation of this warranty, DTPW shall have the right to annul this Agreement without liability.

SECTION XVII - TERMINATION OF AGREEMENT

It is expressly understood and agreed that DTPW may terminate this Agreement, in total or in part, without cause or penalty, by thirty (30) days prior written notification or by declining to issue Notices to Proceed, as provided in Section VIII; in which event the COUNTY's sole obligation to the CONSULTANT shall be payment, in accordance with Section V - Compensation, for those units or sections of work previously authorized. Such payment shall be determined on the basis of the hours or percentage of work performed by the CONSULTANT up to the time of termination. In the event partial payment has been made for professional services not performed, the CONSULTANT shall return such sums to the COUNTY within ten (10) days after receipt of written notice that said sums are due. Upon such termination, the

COUNTY may, without penalty or other obligation to the CONSULTANT, elect to employ other persons to perform the same or similar services.

SECTION XVIII - DURATION OF AGREEMENT

This Agreement shall remain in full force and effect for a period of five (5) calendar years, excluding the warranty administration period (although actual completion of the services hereunder may extend beyond such term) or until depletion of the funds allocated to pay for the cost of said services, whichever occurs first, unless terminated by mutual consent of the parties hereto or as provided in Section XIII, Section XVI, Section XVII, Section XIX, Section XIII, and Section XXV hereof.

SECTION XIX - DEFAULT

In the event the CONSULTANT fails to comply with the provisions of this Agreement, DTPW may declare the CONSULTANT in default by thirty (30) days prior written notification. In such event, the CONSULTANT shall only be compensated for any completed professional services. In the event partial payment has been made for such professional services not completed, the CONSULTANT shall return such sums to the COUNTY within ten (10) days after notice that said sums are due. The CONSULTANT shall not be compensated on a percentage of the professional services, which have been performed at the time DTPW declares a default. In the event Miami-Dade County prevails in litigation to enforce the provisions of this Agreement, Miami-Dade County shall be compensated by the CONSULTANT for reasonable attorney's fees and court costs.

SECTION XX - INDEMNIFICATION AND INSURANCE

The CONSULTANT shall indemnify and hold harmless the County and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including, but not limited to, attorneys' fees and costs of defense, which the County or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings to the extent arising out of, relating to or resulting from the negligence, recklessness, or intentional wrongful conduct of the CONSULTANT or its employees, agents, servants, partners principals or subcontractors. The CONSULTANT shall pay damages and losses in connection therewith, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may issue thereon, to the extent of CONSULTANT's negligence, recklessness, or intentional wrongful conduct. The CONSULTANT expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by CONSULTANT shall in no way limit the responsibility to indemnify, keep and save harmless and defend the County or its officers, employees, agents and instrumentalities as herein provided.

The Consultant shall furnish to the Department of Transportation and Public Works, 111 NW 1st Street, Miami, Florida 33128, Certificate(s) of Insurance which indicate that insurance coverage has been obtained which meets the requirements as outlined below:

- A. Worker's Compensation Insurance for all employees of the Contractor as required by Florida Statute 440 including coverage under the U.S. Longshoremen and Harbor Workers' Act (USLH) and/or Jones Act as applicable for any activities on or about navigable water.

- B. Commercial General Liability in an amount not less than \$1,000,000 per occurrence, and \$2,000,000 in the aggregate. **Miami-Dade County must be shown as an additional insured with respect to this coverage.**
- C. Automobile Liability Insurance covering all owned, non-owned and hired vehicles used in connection with the work, in an amount not less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage.
- D. Professional Liability Insurance in an amount not less than \$2,000,000 per claim.

All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida, with the following qualifications:

The company must be rated no less than "A-" as to management, and no less than "Class VII" as to financial strength, by Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the County Risk Management Division.

or

The company 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 Financial Services.

CERTIFICATE HOLDER MUST READ:

**MIAMI-DADE COUNTY
111 NW 1st STREET
SUITE 2340
MIAMI, FL 33128**

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SECTION XXIV - AFFIRMATIVE ACTION

The CONSULTANT's Affirmative Action Plan submitted pursuant to Ordinance 82-37, as approved by Miami-Dade County, Small Business Development Division and any approved update thereof, are hereby incorporated as contractual obligations of the CONSULTANT to Miami-Dade County hereunder. The CONSULTANT shall undertake and perform the affirmative actions specified herein. DTPW may declare the CONSULTANT in default of this agreement for failure of the CONSULTANT to comply with the requirements of this paragraph.

SECTION XXV - DISABILITY NONDISCRIMINATION

The CONSULTANT's attention is directed to the Miami-Dade County Resolution No. R-385-95. Pursuant to this resolution, the CONSULTANT is required to submit the Disability Nondiscrimination Affidavit attesting that the CONSULTANT complies with the requirements of the Americans with Disabilities Act (ADA) of 1990 and other laws prohibiting discrimination on the basis of disability. DTPW may declare the CONSULTANT in default of this agreement should a post contract violation of any of the acts occur.

SECTION XXVI - PROMPT PAYMENT OF SMALL BUSINESS SUBCONSULTANTS

The CONSULTANT's attention is directed to the Miami-Dade County Ordinance No. 94-40, providing for expedited payments to small businesses by the Miami-Dade County agencies and the Public Health Trust; creating dispute resolution procedures for payment of the Miami-Dade County and Public Health Trust obligation; and requiring the prime contractor to issue prompt payments, and have the same dispute resolution procedures as Miami-Dade County, for all small business subcontractors. Failure of the prime contractor to issue prompt payment to small businesses, or to adhere to its dispute resolution procedures, may be cause for suspension, termination, and debarment, in accordance with the terms of Miami-Dade County contract or Public Health Trust contract and debarment procedures of the Miami-Dade County.

SECTION XXVII - ENTIRETY OF AGREEMENT

This writing embodies the entire agreement and understanding between the parties hereto, and there are no other agreements and understandings, oral or written with reference to the subject matter hereof that are not merged herein and superseded hereby.

No alteration, change, or modification of the terms of this Agreement shall be valid unless made in writing, signed by both parties hereto, and approved by the Board of Miami-Dade County Commissioners.

SECTION XXVIII – E-VERIFY

CONSULTANT shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the CONSULTANT during the term of the Agreement; and shall expressly require any subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify.

SECTION XXIV – PERFORMANCE EVALUATION

At the end of the contract, DTPW will evaluate the CONSULTANT's performance. This evaluation will become public record.

SECTION XXXIV CONSULTANT'S ROLE DURING CONSTRUCTION

CONSULTANT shall be responsible for post design services, construction request for information (RFI) and design plan modifications and changes due to construction field conflicts.

This Agreement, regardless of where executed, shall be governed by and construed according to the laws of the State of Florida, and venue shall be in Miami-Dade County, Florida.

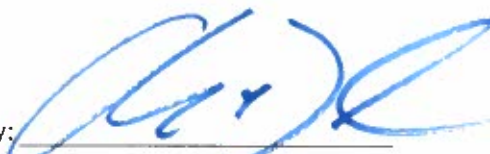
IN WITNESS WHEREOF the parties hereto have executed these presents this ____ day of _____ 20__.

ATTEST: For the Board of County Commissioners, Miami-Dade County, Florida

HARVEY RUVIN, CLERK OF THE BOARD

By: _____ By: _____
County Mayor

ATTEST: _____ Kimley-Horn and Associates, Inc.
A Florida Corporation

By:  _____ By:  _____
Corporate Secretary Vice President
Adrian Dabkowski, P.E. John J. McWilliams, P.E.

Approved as to form and legal sufficiency.

Assistant County Attorney



EXHIBIT A

Kimley-Horn and Associates, Inc. Hourly Rates and Multiplier (E20-DTPW-01)	
POSITION	HOURLY RATE
Principal	\$165.00
Sr. Project Mgr.	\$90.00
Project Mgr.	\$63.80
Engineer 2	\$58.00
Engineer 1	\$47.25
Engineer Intern	\$34.25
Sr. Design	\$47.30
Engineering Tech	\$28.43
CADD/Computer Tech	\$30.00
CEI St. Project Eng/Prog Admin	\$80.00
Clerical/Secretary	\$27.00
Sr. Inspector	\$42.00

Multipliers:

Field/MDC Multiplier = 2.4

Home Office Multiplier = 2.85



Memorandum



To: Honorable Chairman Jose “Pepe” Diaz
and Members, Board of County Commissioners

From: Javier A. Betancourt, Executive Director 

Date: July 29, 2022

Re: CITT AGENDA ITEM 7C:
RESOLUTION BY THE CITIZENS’ INDEPENDENT TRANSPORTATION TRUST (CITT) RECOMMENDING THE BOARD OF COUNTY COMMISSIONERS APPROVE A CONTRACT AWARD FOR PROFESSIONAL SERVICES AGREEMENTS WITH A & P CONSULTING TRANSPORTATION ENGINEERS CORP., CTS ENGINEERING, INC., AND KIMLEY-HORN AND ASSOCIATES, INC., IN A TOTAL AMOUNT NOT TO EXCEED **\$15,000,000.00**, TO PROVIDE GENERAL ENGINEERING SERVICES FOR DEPARTMENT OF TRANSPORTATION AND PUBLIC WORKS TRAFFIC ENGINEERING STUDIES, MAINTENANCE OF TRAFFIC AND DESIGN PLANS REVIEW, TRAFFIC SIGNAL, AND INTERSECTION IMPROVEMENTS DESIGN (PROJECT NO. E20-DTPW-01; CONTRACT NOS. 20190335, 20190336 AND 20190337) AND AUTHORIZE THE COUNTY MAYOR OR COUNTY MAYOR’S DESIGNEE TO EXERCISE ALL PROVISIONS OF THE CONTRACT PURSUANT TO THE COUNTY CODE; AND AUTHORIZE THE USE OF CHARTER COUNTY TRANSPORTATION SURTAX FUNDS IN THE AMOUNT OF **\$5,000,000.00** FOR THIS PROJECT. **(DTPW – BCC LEGISLATIVE FILE NO. 221445) SURTAX FUNDS ARE REQUESTED**

On July 28, 2022, the CITT voted (8-0) to forward a favorable recommendation to the Board of County Commissioners (BCC) for the approval of the above referenced item, CITT Resolution No. 22-021. The vote was as follows:

Oscar J. Braynon, Chairperson – Aye
Alfred J. Holzman, 1st Vice-Chairperson – Aye
Robert Wolfarth, 2nd Vice-Chairperson – Aye

Hon. Peggy Bell – Absent
Meg Daly – Aye
Paul J. Schwiep, Esq. – Aye
Mary Street, Esq. – Aye

Joseph Curbelo – Aye
Qjuezari Harvey – Aye
L. Elijah Stiers, Esq. – Absent
Ernest Thomas – Absent

c: Jimmy Morales, Chief Operations Officer
Bruce Libhaber, Assistant County Attorney