

CONSULTANT AGREEMENT
Between
CITY OF DORAL, FL
And
CALVIN, GIORDANO, and ASSOCIATES, INC.

THIS AGREEMENT is made between CITY OF DORAL, FLORIDA, a Florida municipal corporation, (hereinafter referred to as the "CITY") and CALVIN, GIORDANO, AND ASSOCIATES, INC., a Florida profit corporation authorized to do business in the State of Florida, (hereinafter referred to as the "CONSULTANT"), whose principal place of business is 1800 Eller Drive, Suite 600, Ft. Lauderdale, Florida, 33316, with FEIN 65-0013869. CITY and CONSULTANT may be referred to individually as "Party" or collectively as "Parties."

RECITALS

WHEREAS, the CONSULTANT has submitted a proposal, dated August 21, 2024, which is attached hereto as Exhibit "A" and incorporated into this Agreement by reference and made a part hereof; and

WHEREAS, the CONSULTANT is willing and able to perform such professional services for the CITY within the basic terms and conditions set forth in this agreement (hereinafter "Consultant Agreement" or "Agreement"); and

WHEREAS, the CITY selected the CONSULTANT to provide Project Management and Construction Engineering Inspection (CEI) Services to the CITY based on the representations of CONSULTANT in their Proposal; and

WHEREAS, the purpose of this Consultant Agreement is to authorize the Consultant to perform Project Management and Construction Engineering Inspection (CEI) Services and post design services during the construction phase of ITB 2024-14 Doral Boulevard Entry Features; and

WHEREAS, this Consultant Agreement shall become effective upon the full execution of the Agreement below.

AGREEMENT

NOW THEREFORE, in consideration of the foregoing recitals, which are incorporated herein and made a part hereof by this reference, the mutual terms, conditions, promises and covenants set forth below, and other good and valuable consideration, the sufficiency of which the Parties hereby acknowledge, the CITY and CONSULTANT agree as follows:

SECTION 1. DEFINITIONS.

The following definitions and references are given for the purpose of interpreting the terms as used in this Agreement and apply unless the context indicates a different meaning:

1.1 **Compensation:** The total amount paid by the CITY for the CONSULTANT'S professional services for a specific project, exclusive of reimbursable expenses.

1.2 **Contract Time:** The number of calendar days provided in the Consultant Agreement for completion of a specific project or any extension date, whichever shall last occur.

1.3 **Reimbursable Expenses:** the direct non-salary expenses directly attributable to the Project. Reimbursable expenses include application and permit fees paid for securing approval of authorities having jurisdiction over the specific project; travel expenses; and Subconsultant's fees. CONSULTANT shall only be reimbursed for the direct cost of the item without additional mark-up. Reimbursable Expenses must be substantiated by actual invoices and require prior written authorization of the CITY.

SECTION 2. SCOPE OF SERVICES.

2.1 The professional services to be rendered by the CONSULTANT shall commence subsequent to the execution of Consultant Agreement. Performance of work by CONSULTANT prior to execution of a Consultant Agreement shall be at Consultant's sole risk. Upon the commencement of the term of the Consultant Agreement, the CONSULTANT shall commence services to the CITY on the Commencement Date, and shall continuously perform services to the CITY, without interruption, in accordance with the time frames set forth in the Consultant Agreement. It is the CONSULTANT's sole responsibility to seek an extension from the CITY of the timeframe to complete the project, if necessary. The number of calendar days provided in the Consultant Agreement for completion of the Project or any extension date, whichever shall last occur, shall constitute the Contract Time.

2.2 The CONSULTANT shall submit to the CITY all final deliverables within the Contract Time as noted in Consultant Agreement and associated CONSULTANT Proposal.

SECTION 3. TERM/TERMINATION/SUSPENSION.

3.1 **Term of Agreement:** This Consultant Agreement shall commence on the date this instrument is fully executed by all parties. Consultant Agreement shall specify the period of service agreed to by the CITY and CONSULTANT for services to be rendered under said Consultant Agreement. Notwithstanding the above, this Agreement shall not commence before the effective date hereof.

3.2 **Effect on Consultant Agreement:** Nothing in this section shall be construed to limit the City's right to terminate any ongoing Consultant Agreement(s).

3.3 **Termination For Cause:** This Consultant Agreement may be terminated by either party for cause, upon fourteen (14) calendar days written notice to the other party should the other party fail substantially to perform in accordance with its material terms through no fault of the party initiating the termination. Cause shall be defined as a substantial failure by the other party to perform in accordance with the terms and conditions contained in this Agreement and/or any Consultant Agreement through no fault of the terminating party. If the CONSULTANT abandons this Agreement or a Consultant Agreement, or the CITY terminates the Agreement or Consultant Agreement for cause, the CONSULTANT shall indemnify the CITY against any loss pertaining to this termination. In the event that the CONSULTANT is terminated by the CITY for cause, and it is subsequently determined by a court of competent jurisdiction that such termination was without cause, such termination shall thereupon be deemed a termination for convenience under Section 3.4 of this Agreement and the provision of Section 3.4 shall apply.

3.4 **Termination For Convenience:** This Consultant Agreement may be terminated by the CITY for convenience upon fourteen (14) calendar days' written notice to the CONSULTANT. In the event of termination, the CONSULTANT shall incur no further obligations in connection with the Project and shall, to the extent possible, terminate any outstanding subconsultant obligations. The CONSULTANT shall be compensated for all services performed to the satisfaction of the CITY and for reimbursable expenses incurred prior to the date of termination. The CONSULTANT shall promptly submit to the CITY its invoice for final payment and reimbursement and the invoice shall comply with the provisions of Section 4.1 of this Agreement. Under no circumstances shall the CITY make any payment to the CONSULTANT for profit or overhead for services which have not been performed.

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

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

SECTION 4. BILLING & PAYMENT TO THE CONSULTANT.

4.1 **Billing:** CONSULTANT shall submit invoices which are identified by the specific Consultant Agreement number on a monthly basis in a timely manner. These invoices shall identify the nature of the work performed, the phase of work, and the estimated percentage of work accomplished in accordance with the Fee Schedule set forth in the Consultant Agreement. Invoices for each phase shall not exceed amounts allocated to each phase of the Project plus reimbursable expenses accrued during each phase. Requests for payment of reimbursable expenses shall be remitted with supporting documentation to substantiate the same. The statement shall show a summary of fees with accrual of the total and credits for portions previously paid by the CITY. The CITY shall pay CONSULTANT within thirty (30) calendar days of approval by the CITY Manager of any invoices submitted by CONSULTANT to the CITY.

4.2 **Disputed Invoices:** In the event that all or a portion of an invoice submitted to the CITY for payment to the CONSULTANT is disputed, or additional backup documentation is required, the CITY shall notify the CONSULTANT within fifteen (15) working days of receipt of the invoice of such objection, modification or additional documentation request. The CONSULTANT shall provide the CITY with additional backup documentation within five (5) working days of the date of the CITY'S notice. The CITY may request additional information, including but not limited to, all invoices, time records, expense records, accounting records, and payment records of the CONSULTANT. The CITY shall pay the CONSULTANT the undisputed portion of the invoice. The parties shall endeavor to resolve the dispute in a mutually agreeable fashion.

4.3 **Suspension of Payment:** In the event that the CITY becomes credibly informed that any representations of the CONSULTANT are wholly or partially inaccurate, or in the event that the CONSULTANT is not in compliance with any term or condition of this Agreement and/or any Consultant Agreement, the CITY may withhold payment of sums then or in the future otherwise due to the CONSULTANT until the inaccuracy, or other breach of the Agreement(s), and the cause thereof, is corrected to the CITY'S reasonable satisfaction.

4.4 **Reserved.**

4.5 **Final Payment:** Submission of the CONSULTANT'S invoice for final payment and reimbursement shall constitute the CONSULTANT'S representation to the CITY that, upon receipt from the CITY of the amount invoiced, all obligations of the CONSULTANT to others, including its subconsultants, incurred in connection with the Project, shall be paid in full. The CONSULTANT shall deliver to the CITY all documents requested by the CITY evidencing payments to any and all subconsultants, and all final specifications, plans, or other documents as dictated in the Scope of Services and Deliverable. Acceptance of final payment shall constitute a waiver of any and all claims against the CITY by the CONSULTANT.

SECTION 5. ADDITIONAL SERVICES AND CHANGES IN SCOPE OF SERVICES.

5.1 **Changes Permitted.** Changes in the Scope of Services of a Consultant Agreement consisting of additions, deletions, revisions, or any combination thereof, may be ordered by the CITY by Consultant Agreement Amendment, without invalidating the Consultant Agreement.

5.2 **Consultant Agreement Amendment Defined.** A Consultant Agreement Amendment shall mean a written amendment to the Consultant Agreement, executed by the CONSULTANT and the CITY, issued after execution of a Consultant Agreement, authorizing and directing a change in the Scope of Services or an adjustment in the Contract Price or the Contract Time, or any combination thereof. The Contract Price and/or the Contract Time may be changed only by a Consultant Agreement Amendment.

5.3 **Effect of Executed Consultant Agreement Amendment.** The execution of a Consultant Agreement Amendment by the CITY and the CONSULTANT shall constitute conclusive evidence of the CONSULTANT's agreement to the ordered changes in the Scope of Services or an adjustment in the Contract Price or the Contract Time, or any combination thereof. The CONSULTANT, by executing the Consultant Agreement Amendment, waives and forever releases any claim against the CITY for additional time or compensation for matters relating to or arising out of or resulting from the Services included within or affected by the executed Consultant Agreement Amendment.

5.4 **Modifications to Scope of Services:** The CITY may request changes that would increase, decrease, or otherwise modify the Scope of Services of this Agreement. Such changes must be contained in a written agreement executed by the parties in accordance with the provisions of the Continuing Services Agreement, prior to any deviation from the terms of the Agreement, including the initiation of any extra work.

SECTION 6. SURVIVAL OF PROVISIONS. Any terms or conditions of either this Agreement or any subsequent Consultant Agreement that require acts beyond the date of the term of either agreement, shall survive termination of the agreements, shall remain in full force and effect unless and until the terms or conditions are completed and shall be fully enforceable by either party.

SECTION 7. CITY'S RESPONSIBILITIES.

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

7.2 Furnish CONSULTANT, at the CONSULTANT'S written request, all available maps, plans, existing studies, reports and other data, in the CITY'S possession, pertinent to the services to be provided by CONSULTANT.

7.3 Arrange for access to and make all provisions for CONSULTANT to enter upon public property as required for CONSULTANT to perform services.

SECTION 8. CODE OF ETHICS.

8.1 The code of ethics of the Florida Engineering Society shall be incorporated in this Agreement by this reference.

8.2 CONSULTANT warrants and represents that its employees shall abide by the Code of Ethics for Public Officers and Employees as set forth in Chapter 112, Florida Statutes.

8.3 CONSULTANT warrants and represents that it shall abide by the provisions of Miami-Dade County Code Section 2-11.1 (County Code of Ethics), and the provisions of Article VII of Chapter 2 of the City of Doral Code of Ordinances related to ethical conduct of CITY vendors.

SECTION 9. POLICY OF NON-DISCRIMINATION/WAGES.

9.1 The CONSULTANT shall comply with all federal, state, and local laws and ordinances applicable to the work or payment for work and shall not discriminate on the grounds of race, color, religion, sex, age, marital status, national origin, physical or mental disability in the performance of work under this Agreement.

9.2 If the project is subject to federal and grant funding that requires specific wage and non-discrimination provisions, CONSULTANT shall be required to comply with the same.

SECTION 10. OWNERSHIP OF DOCUMENTS/DELIVERABLES.

10.1 All finished or unfinished documents, including but not limited to, detailed reports, studies, plans, drawings, surveys, maps, models, photographs, specifications, digital files, and all other data prepared for the CITY or furnished by the CONSULTANT pursuant to any Consultant Agreement, shall become the property of the CITY, whether the Project for which they are made is completed or not, and shall be delivered by CONSULTANT to the CITY within five (5) calendar days after receipt of written notice requesting delivery of said documents or digital files. The CONSULTANT shall have the right to keep one record set of the documents upon completion of the Project, however, in no event shall the CONSULTANT, without the CITY'S prior written authorization, use, or permit to be used, any of the documents except for client or educational presentations or seminar use.

10.2 All subcontracts for the preparation of reports, studies, plans, drawings, specifications, digital files or other data, entered into by the CONSULTANT for each Specific project shall provide that all such documents and rights obtained by virtue of such contracts shall become the property of the CITY.

10.3 All final plans and documents prepared by the CONSULTANT shall bear the

endorsement and seal of a person duly registered as a Professional Engineer, Architect, Landscape Architect, Professional Geologist, or Land Surveyor, as appropriate, in the State of Florida and date approved and/or sealed.

10.4 All deliverables should be provided in hard copy format as well as electronic format to the CITY. Drawings should be provided in CADD, spread sheets in Excel, and written documentation should be provided in Microsoft Word. The date of submittal to the CITY shall be deemed to be the latter of delivery of hard copies and delivery of electronic copies, as applicable.

10.5 Any modifications by the City to any of the CONSULTANT's documents, without written authorization by the CONSULTANT will be at the City's sole risk and without liability to the CONSULTANT.

SECTION 11. RECORDS/AUDITS.

11.1 CONSULTANT shall maintain and require subconsultants to maintain, complete and correct records, books, documents, papers and accounts pertaining to the Specific project. Such records, books, documents, papers and accounts shall be available at all reasonable times for examination and audit by the CITY Manager or any authorized CITY representative with reasonable notice and shall be kept for a period of three (3) years after the completion of each Consultant Agreement. Incomplete or incorrect entries in such records, books, documents, papers or accounts will be grounds for disallowance by or reimbursement to the CITY of any fees or expenses based upon such entries. Disallowed fees will be paid when incomplete or incorrect entries are remedied to the satisfaction of the CITY.

11.2 The CONSULTANT shall comply with Chapter 119, Florida Statutes, as applicable.

11.3 Refusal of the CONSULTANT to comply with the provisions of Sections 11.1 or 11.2 shall be grounds for termination for cause by the CITY of this Agreement or any Consultant Agreement.

SECTION 12. NO CONTINGENT FEE. CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for CONSULTANT, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for CONSULTANT, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. In the event the CONSULTANT violates this provision, the CITY shall have the right to terminate this Agreement or any Consultant Agreement, without liability, and at its sole discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration.

SECTION 13. INDEPENDENT CONTRACTOR. The CONSULTANT is an independent contractor under this Agreement and any Consultant Agreements. Personal services provided by the CONSULTANT shall be by employees of the CONSULTANT and subject to supervision by the

CONSULTANT, and not as officers, employees, or agents of the CITY. Personnel policies, tax responsibilities, social security, health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Agreement or any Consultant Agreements shall be those of the CONSULTANT.

SECTION 14. ASSIGNMENT; AMENDMENTS.

14.1 This Agreement shall not be assigned, transferred or otherwise encumbered, under any circumstances, by the CONSULTANT, without the prior written consent of the CITY.

14.2 No modification, amendment or alteration in the terms or conditions of this Agreement shall be effective unless contained in a written document executed with the same formality as this Agreement.

SECTION 15. INDEMNIFICATION/HOLD HARMLESS.

15.1 Pursuant to Section 725.08, Florida Statutes, the CONSULTANT shall indemnify, and hold harmless the City, its officers, agents and employees, from and against any and all demands, claims, losses, suits, liabilities, causes of action, judgment or damages, to the extent caused by CONSULTANT's, or any persons employed or utilized by the CONSULTANT in the performance of this Agreement or any Consultant Agreement, negligent acts, errors, omission negligence, reckless, or intentionally wrongful conduct under this Agreement. Consultant shall reimburse the City for all its expenses including reasonable attorneys' fees and costs incurred, up though and inclusive of any appeals, in and about the defense of any such claim or investigation and for any judgment or damages to the extent caused by CONSULTANT's and/or and of the CONSULTANT'S subconsultant's negligent acts, errors, omission negligence, reckless, or intentionally wrongful conduct.

15.2 The provisions of this section shall survive termination of this Agreement.

15.3 Except as otherwise explicitly provided herein, in no event shall either Party, its parents, affiliates and subsidiaries or their respective directors officers or employees be liable to the other for any indirect, incidental, special, consequential or punitive damages whatsoever (including without limitation, loss of revenue, loss of use, or interruption of business) arising out of or related to this Agreement, even if advised of the possibility of such damages, and CONSULTANT hereby releases CITY and CITY hereby releases CONSULTANT from any such liability.

SECTION 16. INSURANCE. The CONSULTANT shall secure and maintain throughout the duration of this Agreement and any Consultant Agreement, insurance of such type and in such amounts necessary to protect its interest and the interest of the CITY against hazards or risks of loss as specified in the RFQ. The underwriter of such insurance shall be qualified to do business in Florida and have agents upon whom service of process may be made in the State of Florida. The CITY shall be listed as an additional insured on all policies, with the exception of workers'

compensation coverage, if applicable. The insurance coverage shall be primary insurance with respect to the CITY, its officials, employees, agents and volunteers. Any insurance maintained by the CITY shall be in excess of the CONSULTANT'S insurance and shall not contribute to the CONSULTANT'S insurance. Additionally, CONSULTANT shall obtain additional insurance coverage as the CITY may require for a specific Consultant Agreement.

SECTION 17. REPRESENTATIVE OF CITY AND CONSULTANT.

17.1 **CITY Representative:** It is recognized that questions in the day-to-day conduct of this Agreement will arise. The CITY designates the CITY Manager or their designee, as the person to whom all communications pertaining to the day-to-day conduct of this Agreement shall be addressed.

17.2 **CONSULTANT Representative:** THE CONSULTANT shall inform the CITY Representative, in writing, of the representative of the CONSULTANT to whom all communications pertaining to the day-to-day conduct of this Agreement shall be addressed.

SECTION 18. COST AND ATTORNEY'S FEES/WAIVER OF JURY TRIAL.

18.1 If either the CITY or CONSULTANT is required to enforce the terms of this Agreement or any Consultant Agreement by court proceedings or otherwise, whether or not formal legal action is required, each party shall be responsible for their own costs and expenses, including attorneys' fees and costs, the fees and expenses of any paralegals, law clerks and legal assistants, and including fees and expenses charged for representation at both the trial and appellate levels.

18.2 In the event of any litigation arising out of this Agreement or Consultant Agreement, each party hereby knowingly, irrevocably, voluntarily and intentionally waives its right to trial by jury.

SECTION 19. PRIORITY OF AUTHORITY OF INSTRUMENTS. The relationship between the Parties shall be governed by several contract documents, all of which, when read together, shall constitute one agreement between the Parties. The contract documents include this Agreement, one or more ensuing Consultant Agreements, and the City solicitation documents. In the event of conflict between or amongst the contract documents, priority shall be as follows:

- a. Consultant Agreement Amendment;
- b. Consultant Agreement;

Otherwise, there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in the aforementioned contract documents. Accordingly, it is agreed that no deviation from the terms of this Agreement shall be predicated upon any prior representations or agreements whether oral or written.

SECTION 20. CONSULTANT’S RESPONSIBILITIES.

20.1 Any and all deliverables, drawings, studies, plans, specifications, or other construction or contract documents prepared by the CONSULTANT shall be accurate, coordinated and adequate for construction and shall comply with all applicable CITY Codes, state and federal laws, rules and regulations.

20.2 The CONSULTANT shall exercise the same degree of care, skill and diligence in the performance of the services for this Consultant Agreement as is ordinarily provided by a professional engineer, architect, landscape architect, surveyor or mapper under similar circumstances. If at any time during the term of any Consultant Agreement or the construction of the Project for which the CONSULTANT has provided deliverables, engineering, architectural landscape architectural, surveying or mapping services under a prior Consultant Agreement, it is determined that the CONSULTANT’S documents are incorrect, defective or fail to conform to the Scope of Services of the particular Project, upon written notification from the CITY, the CONSULTANT shall immediately proceed to correct the work, re-perform services which failed to satisfy the foregoing standard of care, and shall pay all costs and expenses associated with correcting said incorrect or defective work, including any additional testing, inspections, and construction and reimbursements to the CITY for any other services and expenses made necessary thereby, save and expect any costs and expenses which the CITY would have otherwise paid absent the CONSULTANT’S error or omission. The CITY’S rights and remedies under this section are in addition to, and are cumulative of, any and all other rights and remedies provided by this Agreement, the Consultant Agreement, by law, equity or otherwise.

20.3 The Consultant shall, all times during the term of the Agreement, maintain in good standing all required licenses, certifications and permits required under federal, state, and local laws necessary to perform the services.

20.4 The CONSULTANT’S obligations under subsection 20.2 of this Agreement shall survive termination of this Agreement or any Consultant Agreement.

SECTION 21. SUBCONSULTANTS.

21.1 In the event the CONSULTANT requires the services of any subconsultants or other professional associates in connection with services covered by any Consultant Agreement, the CONSULTANT must secure the prior written approval of the CITY. The CONSULTANT shall comply with City Code Section 2-325, except where state or federal law, regulations, or grant requirements mandate to the contrary, to use best efforts to utilize subconsultants whose principal place of business is located within the CITY or Miami-Dade County, Florida and adhere to all local CITY ordinances.

21.2 Any subcontract with a subconsultant shall afford to the CONSULTANT rights

against the subconsultant which correspond to those rights afforded to the CITY against the CONSULTANT herein, including but not limited to those rights of termination as set forth herein.

21.3 No reimbursement shall be made to the CONSULTANT for any subconsultants that have not been previously approved by the CITY for use by the CONSULTANT.

21.4 Any subconsultant shall be bound by the terms and conditions of this Agreement and comply with the same insurance requirements as described in Section 16.

SECTION 22. EMPLOYMENT ELIGIBILITY VERIFICATION (E-VERIFY).

22.1 CONSULTANT must comply with the Employment Eligibility Verification Program (“E-Verify Program”) developed by the federal government to verify the eligibility of individuals to work in the United States and 48 CFR 52.222-54 (as amended) is incorporated herein by reference. If applicable, in accordance with Subpart 22.18 of the Federal Acquisition Register, the CONSULTANT must (1) enroll in the E-Verify Program, (2) use E-Verify to verify the employment eligibility of all new hires working in the United States; (3) use E-Verify to verify the employment eligibility of all employees assigned to the Agreement; and (4) include this requirement in certain subcontracts, such as construction. Information on registration for and use of the E-Verify Program can be obtained via the internet at the Department of Homeland Security Web site: <http://www.dhs.gov/E-Verify>.

22.2 CONSULTANT shall also comply with Florida Statute 448.095, which directs all public employers, including municipal governments, and private employers with 25 or more employees to verify the employment eligibility of all new employees through the U.S. Department of Homeland Security’s E-Verify System, and further provides that a public entity may not enter into a contract unless each party to the contract registers with and uses the E-Verify system. Florida Statute 448.095 further provides that if a CONSULTANT enters into a contract with a subcontractor, the subcontractor must provide the CONSULTANT with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. In accordance with Florida Statute 448.095, CONSULTANT, if it employs more than 25 employees, is required to verify employee eligibility using the E-Verify system for all existing and new employees hired by CONSULTANT during the contract term. Further, CONSULTANT must also require and maintain the statutorily required affidavit of its subcontractors. It is the responsibility of CONSULTANT to ensure compliance with E-Verify requirements (as applicable). To enroll in E-Verify, employers should visit the E-Verify website (<https://www.e-verify.gov/employers/enrolling-in-e-verify>) and follow the instructions. CONSULTANT must retain the I-9 Forms for inspection, and provide an executed E-Verify Affidavit, which is attached hereto as Exhibit “E”.

SECTION 23. SCRUTINIZED COMPANIES. Provider certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, F.S., the Customer may immediately terminate this Agreement at its sole option if the Provider or its subcontractors are found to have submitted a false certification; or if the Provider, or its

subcontractors are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement. If this Agreement is for more than one million dollars, the Provider certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, F.S. Pursuant to Section 287.135, F.S., the Customer may immediately terminate this Agreement at its sole option if the Provider, its affiliates, or its subcontractors are found to have submitted a false certification; or if the Provider, its affiliates, or its subcontractors are placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Agreement.

SECTION 24. COMPLIANCE WITH FLORIDA PUBLIC RECORD LAW. Pursuant to Section 119.0701, Florida Statutes, CONSULTANT agrees to:

- i. Keep and maintain public records in CONSULTANT's possession or control in connection with CONSULTANT's performance under this agreement. CONSULTANT shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law, for the duration of the Agreement, and following completion of the Agreement until the records are transferred to the CITY.
- ii. Upon request from the CITY's custodian of public records, CONSULTANT shall provide the CITY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided by Chapter 119, Florida Statutes, or as otherwise provided by law.
- iii. Unless otherwise provided by law, any and all records, including but not limited to reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of the CITY. Notwithstanding, it is understood that at all times CONSULTANT's workpapers shall remain the sole property of CONSULTANT and are not subject to the terms of this Agreement.
- iv. Upon completion of this Agreement or in the event of termination by either party, any and all public records relating to this Agreement in the possession of CONSUTLANT shall be delivered by CONSULTANT to the CITY Manager, at no cost to the CITY, within seven (7) days. All such records stored electronically by CONSULTANT shall be delivered to the CITY in a format that is compatible with the CITYs information technology systems. Once the public records have been delivered upon completion or termination of this Agreement, CONSULTANT shall destroy any and all duplicate records that are exempt or confidential and exempt from public records disclosure requirements. Notwithstanding the terms of this Section, the Parties agree and it is understood that CONSULTANT will maintain a copy of any information, confidential or otherwise, necessary to support its work product generated as a result of its engagement for

services, solely for reference and archival purposes in accordance with all applicable professional standards, which will remain subject to the obligations of confidentiality herein.

- v. Any compensation due to CONSULTANT shall be withheld until all records are received as provided herein.
- vi. CONSULTANT'S failure or refusal to comply with the provisions of this section shall result in the immediate termination of this Agreement by the CITY.

IF THE PROVIDER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE PROVIDER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, THE PROVIDER SHALL CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (TELEPHONE NUMBER: 305-593-6730 E-MAIL ADDRESS: CONNIE.DIAZ@CITYOFDORAL.COM, AND MAILING ADDRESS: THE CITY OF DORAL HALL 8401 NW 53RD TERRACE, DORAL, FL 33166.

SECTION 25. NOTICES. Whenever either party desires to give notice to the other, it must be given by hand delivery or written notice, sent by certified United States mail, with return receipt requested or a nationally recognized private mail delivery service, addressed to the party for whom it is intended, at the place last specified, and the place for giving of notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving of notice, to-wit:

FOR CITY:

CITY of Doral
Attention: Rey Valdes, City Manager
8401 NW 53rd Terrace
Doral, FL 33166
T (305) 593-6725
F (305) 593-6619

FOR CONSULTANT:

CALVIN, GIORDANO, and ASSOCIATES,
INC.
Attention: Gianni Feoli
1800 Eller Drive, Suite 600,
Ft. Lauderdale, FL 33316
Telephone: (954) - 921-7781

WITH A COPY TO:

City Attorney
8401 NW 53rd Terrace
Doral, FL 33166

SECTION 26. TRUTH-IN-NEGOTIATION CERTIFICATE. Signature of this Agreement by CONSULTANT shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement or any Consultant Agreement are accurate, complete, and current at the time of contracting. Each Consultant Agreement's contract prices and any additions shall be adjusted to exclude any significant sums by which the CITY determines the Project's contract price was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs. All such adjustments shall be made within one year following the end of each Consultant Agreement.

SECTION 27. CONSENT TO JURISDICTION. The parties submit to the jurisdiction of any Florida state or federal court in any action or proceeding arising out of relating to this Agreement or any Consultant Agreement. Venue of any action to enforce this Agreement or any Consultant Agreement shall be in the courts of the 11th Judicial Circuit in and for Miami-Dade County, Florida or in the event of federal jurisdiction the United States District Court for the Southern District of Florida.

SECTION 28. GOVERNING LAW. Notwithstanding any conflict of laws, this Agreement and any subsequent Consultant Agreement shall be construed in accordance with and governed by the laws of the State of Florida.

SECTION 29. HEADINGS. Headings are for convenience of reference only and shall not be considered in any interpretation of this Agreement.

SECTION 30. EXHIBITS. Each Exhibit referred to in this Agreement forms an essential part of this Agreement. The Exhibits if not physically attached, should be treated as part of this Agreement, and are incorporated by reference.

SECTION 31. SEVERABILITY. If any provision of this Agreement or any Consultant Agreement or the application thereof to any person or situation shall to any extent, be held invalid or unenforceable, the remainder of this Agreement, and the application of such provisions to persons or situations other than those as to which it shall have been held invalid or unenforceable shall not be affected thereby, and shall continue in full force and effect, and be enforced to the fullest extent permitted by law.

SECTION 32. COUNTERPARTS. This Agreement may be executed in several counterparts, each of which shall be deemed an original and such counterparts shall constitute one and the same instrument.

SECTION 33. FORCE MAJEURE. It is understood that performance of any act by the City or Consultant hereunder may be delayed or suspended at any time while, but only so long as, either party is hindered in or prevented from performance by acts of God, the elements, war, rebellion, strikes, lockouts, pandemics or any cause beyond the reasonable control of such party, provided however, the City shall have the right to provide substitute service from third parties or City

forces as may be necessary to meet City needs. If the condition of force majeure exceeds a period of fourteen (14) days, the City may, at its option and discretion, cancel or renegotiate the Agreement.

SECTION 34. INTERPRETATION.

34.1 The language of this Agreement has been agreed to by both parties to express their mutual intent and no rule of strict construction shall be applied against either party hereto. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as “herein,” “hereof,” “hereunder,” and “hereinafter” refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a Section or Article of this Agreement, such reference is to the Section or Article as a whole, including all of the subsections of such Section, unless the reference is made to a particular subsection or subparagraph of such Section or Article.

34.2 Preparation of this Agreement has been a joint effort of the CITY and CONSULTANT and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than any other.

SECTION 35. THIRD PARTY BENEFICIARY. CONSULTANT and the CITY agree that it is not intended that any provision of this Agreement establishes a third-party beneficiary giving or allowing any claim or right of action whatsoever by any third party under this Agreement.

SECTION 36. NO ESTOPPEL. Neither the CITY’s review, approval and/or acceptance of, or payment for services performed under this Agreement shall be construed to operate as a waiver of any rights under this Agreement of any cause of action arising out of the performance of this Agreement, and CONSULTANT shall be and remain liable to the CITY in accordance with applicable laws for all damages to the CITY caused by CONSULTANT’s negligent performance of any of the services under this Agreement. The rights and remedies provided for under this Agreement are in addition to any other rights and remedies provided by law.

SECTION 37. FLORIDA STATUTE 558.0035. PURSUANT TO FLORIDA STATUTES CHAPTER 558.0035 A DESIGN PROFESSIONAL EMPLOYED BY CONSULTANT MAY NOT BE HELD INDIVIDUALLY LIABLE FOR DAMAGES RESULTING FROM NEGLIGENCE OCCURRING WITHIN THE COURSE AND SCOPE OF A PROFESSIONAL SERVICES.

[THIS AREA INTENTIONALLY LEFT BLANK. SIGNATURES TO FOLLOW.]

IN WITNESS WHEREOF, the parties execute this Agreement on the respective dates under each signature: The CITY, signing by and through its CITY Manager, attested to by its CITY Clerk, duly authorized to execute same and by CONSULTANT by and through the below-named representative who has been duly authorized to execute same through a resolution of the corporation or partnership.

ATTEST:

CITY OF DORAL

Connie Diaz, City Clerk

Rey Valdes, City Manager

Date: _____

Approved as to form and legality
for the sole use and reliance of the
City of Doral:

GASTESI, LOPEZ & MESTRE, PLLC
City Attorney

ATTEST:

CONSULTANT

Secretary

By: _____

Date: _____

WITNESSES:

Print Name: _____

Print Name: _____

EXHIBIT "A"