

**PROFESSIONAL SERVICES AGREEMENT**

**Bid/Proposal No. 010-09**

**Contract No. \_\_\_\_\_**

**Project Name Design of Wastewater Collection System Construction Management & Inspection 14<sup>th</sup> Avenue North, 13<sup>th</sup> Avenue North and Bembury Subdivision**

THIS AGREEMENT is made and entered into this 3<sup>rd</sup> day of **March, 2010**, by and between the City of Naples, Florida, a municipal corporation, (hereinafter referred to as the "OWNER") and **Johnson Engineering, Inc. a Florida** corporation, authorized to do business in the State of Florida, whose business address is **2350 Stanford Court, Naples, FL 34112** (hereinafter referred to as the "CONSULTANT").

**WITNESSETH:**

WHEREAS, the OWNER desires to obtain the professional consulting engineering, services of the CONSULTANT concerning certain design services for Design of Wastewater Collection System Construction Management & Inspection 14<sup>th</sup> Avenue North, 13<sup>th</sup> Avenue North and Bembury Subdivision, (hereinafter referred to as the "Project"), said services being more fully described in Exhibit A, "Scope of Services", which is attached hereto and incorporated herein; and

WHEREAS, the CONSULTANT has submitted a proposal for provision of those services; and

WHEREAS, the CONSULTANT represents that it has expertise in the type of professional services that will be required for the Project.

NOW, THEREFORE, in consideration of the mutual covenants and provisions contained herein, the parties hereto agree as follows:

**ARTICLE ONE  
CONSULTANT'S RESPONSIBILITY**

1.1. CONSULTANT shall provide to OWNER professional consultant engineering, services in all phases of the Project to which this Agreement applies.

1.2. The Basic Services to be performed by CONSULTANT hereunder are set forth in the Scope of Services described in detail in Exhibit A. The total compensation to be paid CONSULTANT by the OWNER for all Basic Services is set forth in Article Five and Exhibit B, "Basis of Compensation", which is attached hereto and incorporated herein.

1.3. The CONSULTANT agrees to obtain and maintain throughout the period of this Agreement all such licenses as are required to do business in the State of Florida, the City of Naples, and in Collier County, Florida, including, but not limited to, all licenses required by the respective state boards and other governmental agencies responsible for regulating and licensing the professional services to be

provided and performed by the CONSULTANT pursuant to this Agreement.

1.4. The CONSULTANT agrees that, when the services to be provided hereunder relate to a professional service which, under Florida Statutes, requires a license, certificate of authorization or other form of legal entitlement to practice such services, it shall employ and/or retain only qualified personnel to provide such services.

1.5. CONSULTANT agrees to employ and designate, in writing, within five (5) calendar days after receiving its Notice to Proceed, a qualified licensed professional to serve as the CONSULTANT's project manager (hereinafter referred to as the "Project Manager"). The Project Manager shall be authorized and responsible to act on behalf of the CONSULTANT with respect to directing, coordinating and administering all aspects of the services to be provided and performed under this Agreement. Within five (5) calendar days from the Notice to Proceed issued by the OWNER to the CONSULTANT, the CONSULTANT shall deliver to the OWNER a written statement, executed by the proper officers of the CONSULTANT, acknowledging that the Project Manager shall have full authority to bind and obligate the CONSULTANT on all matters arising out of or relating to this Agreement. The CONSULTANT agrees that the Project Manager shall devote whatever time is required to satisfactorily manage the services to be provided and performed by the CONSULTANT hereunder. The person selected by the CONSULTANT to serve as the Project Manager shall be subject to the prior approval and acceptance of the OWNER.

1.6. CONSULTANT agrees, within fourteen (14) calendar days of receipt of a written request from the OWNER, to promptly remove and replace the Project Manager, or any other personnel employed or retained by the CONSULTANT, or any subconsultants or subcontractors or any personnel of any such subconsultants or subcontractors engaged by the CONSULTANT to provide and perform services or work pursuant to the requirements of this Agreement, whom the OWNER shall request in writing to be removed, which request may be made by the OWNER with or without cause.

1.7. The CONSULTANT has represented to the OWNER that it has expertise in the type of professional services that will be required for the Project. The CONSULTANT agrees that all services to be provided by CONSULTANT pursuant to this Agreement shall be subject to the OWNER's review and approval and shall be in accordance with the generally accepted standards of professional practice in the State of Florida, as well as in accordance with all published laws, statutes, ordinances, codes, rules, regulations and requirements of any governmental agencies which regulate or have jurisdiction over the Project or the services to be provided and performed by CONSULTANT hereunder. In the event of any conflicts in these requirements, the CONSULTANT shall notify the OWNER of such conflict and utilize its best professional judgment to advise OWNER regarding resolution of the conflict.

1.8. CONSULTANT agrees not to divulge, furnish or make available to any third person, firm or organization, without OWNER's prior written consent, or unless incident to the proper performance of the CONSULTANT's obligations hereunder, or in the course of judicial or legislative proceedings where such information has been properly subpoenaed, any non-public information concerning the services to be rendered by CONSULTANT hereunder, and CONSULTANT shall require all of its employees, agents, subconsultants and subcontractors to comply with the provisions of this paragraph.

1.9. CONSULTANT agrees to certify all estimates of construction costs and Project completion dates prepared by the CONSULTANT. Said certifications shall be in a form approved by the OWNER.

1.10. Evaluations of the OWNER'S Project budget, preliminary estimates of construction cost and detailed estimates of construction cost prepared by the CONSULTANT represent the CONSULTANT'S best judgment as a design professional familiar with the construction industry. The CONSULTANT cannot and does not guarantee that bids or negotiated prices will not vary from any estimate of construction cost or evaluation prepared or agreed to by the CONSULTANT. Notwithstanding anything above to the contrary, CONSULTANT shall revise and modify Construction Documents and assist in the rebidding of the Work at no additional cost to OWNER, if all responsive and responsible bids exceed the estimates of construction costs prepared by CONSULTANT.

1.11. CONSULTANT shall not be responsible for means, methods, techniques, sequences or procedures of construction selected by contractors or the safety precautions and programs incident to the work of contractors.

1.12 CONSULTANT agrees not to employ or offer to employ any Elected Officer or City Managerial Employee of OWNER who in any way deals with, coordinates on, or assists with, the professional services provided in this Agreement, for a period of two (2) years after termination of all provisions of this Agreement.

- (a) For purposes of this paragraph, the term "Elected Officer" shall mean any member of the City Council.
- (b) For purposes of this paragraph, the term "City Managerial Employee" shall mean the City Manager, the Assistant City Manager, the City Clerk, and any City department head or director.
- (c) In the event CONSULTANT violates the provisions of this paragraph, CONSULTANT shall be required to pay damages to OWNER in an amount equal to any and all compensation which is received by the former Elected Officer or City Managerial Employee of OWNER from or on behalf of the contracting person or entity, or an amount equal to the former Elected Officer's or City Managerial Employee's last two (2) years of gross compensation from OWNER, whichever is greater.

1.13 CONSULTANT agrees not to provide services for compensation to any other party other than OWNER on the same subject matter, same project, or scope of services as set forth in this Agreement without approval from the City Council of OWNER.

1.14 Except as otherwise provided herein, CONSULTANT agrees not to disclose or use any information not available to members of the general public and gained by reason of CONSULTANT'S contractual relationship with OWNER for the special gain or benefit of

CONSULTANT or for the special gain or benefit of any other person or entity.

## **ARTICLE TWO ADDITIONAL SERVICES OF CONSULTANT**

If authorized in writing by OWNER, CONSULTANT shall furnish or obtain from others Additional Services of the types listed in Article Two herein. These services will be paid for by OWNER as indicated in Article Five and Exhibit B. The following services, if not otherwise specified in Exhibit A as part of Basic Services, shall be Additional Services:

2.1. Preparation of applications and supporting documents (except those already to be furnished under this Agreement) for private or governmental grants, loans, bond issues or advances in connection with the Project.

2.2. Services resulting from significant changes in the general scope, extent or character of the Project or its design including, but not limited to, changes in size, complexity, OWNER's schedule or character of construction; and revising previously accepted studies, reports, design documents or Contract Documents when such revisions are required by changes in laws, rules, regulations, ordinances, codes or orders enacted subsequent to and not reasonably anticipated prior to the preparation of such studies, reports or documents, or are due to any other causes beyond CONSULTANT's control.

2.3. Preparation and submission of information to and necessary consultations with Collier County, Florida Department of Environmental Protection, Florida Department of Transportation, South Florida Water Management District, U.S. Army Corps of Engineers or other appropriate regulatory agencies, in order to obtain necessary permits or approvals for construction of the Project, unless such permits are expressly included in Basic Services to be performed by CONSULTANT hereunder as set forth in the Exhibit A Scope of Services.

2.4. Providing renderings or models for OWNER's use.

2.5. Investigations and studies involving detailed consideration of operations, maintenance and overhead expenses; the preparation of feasibility studies, cash flow and economic evaluations, rate schedules and appraisals; and evaluating processes available for licensing and assisting OWNER in obtaining process licensing.

2.6. Furnishing services of independent professional associates and consultants for other than the contract services to be provided by CONSULTANT hereunder.

2.7. Services during out-of-town travel required of CONSULTANT and directed by OWNER, other than visits to the Project site or OWNER's office.

2.8. Assistance in connection with bid protests, rebidding or renegotiating contracts for construction, materials, equipment or services, except as otherwise provided for herein.

2.9. Providing any type of property surveys, aerial photography or related engineering services needed for the transfer of interests in real property and field surveys for design purposes and engineering surveys

and staking to enable contractors to proceed with their work and providing other special field surveys.

2.10. Preparation of operating, maintenance and staffing manuals, except as otherwise provided for herein.

2.11. Preparing to serve or serving as a CONSULTANT or witness for OWNER in any litigation, or other legal or administrative proceeding, involving the Project (except for assistance in consultations which are included as part of the Basic Services to be provided herein).

2.12. Additional services rendered by CONSULTANTS in connection with the Project, not otherwise provided for in this Agreement or not customarily furnished in accordance with generally accepted engineering, practice.

### **ARTICLE THREE OWNER'S RESPONSIBILITIES**

3.1. The Owner shall designate in writing a project coordinator to act as OWNER's representative with respect to the services to be rendered under this Agreement (hereinafter referred to as the "Project Coordinator"). The Project Coordinator shall have authority to transmit instructions, receive information, interpret and define OWNER's policies and decisions with respect to CONSULTANT's services for the Project. However, the Project Coordinator is not authorized to issue any verbal or written orders or instructions to the CONSULTANT that would have the effect, or be interpreted to have the effect, of modifying or changing in any way whatever:

- (a) The scope of services to be provided and performed by the CONSULTANT hereunder;
- (b) The time the CONSULTANT is obligated to commence and complete all such services;  
or
- (c) The amount of compensation the OWNER is obligated or committed to pay the CONSULTANT.

3.2. The Project Coordinator shall:

(a) Review and make appropriate recommendations on all requests submitted by the CONSULTANT for payment for services and work provided and performed in accordance with this Agreement;

(b) Provide all criteria and information requested by CONSULTANT as to OWNER's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations;

(c) Upon request from CONSULTANT, assist CONSULTANT by placing at CONSULTANT's disposal all available information in the OWNER'S possession pertinent to the Project, including existing drawings, specifications, shop drawings, product literature, previous reports and any other data relative to design or construction of the Project

(d) Arrange for access to and make all provisions for CONSULTANT to enter the Project site to perform the services to be provided by CONSULTANT under this Agreement; and

(e) Provide notice to CONSULTANT of any deficiencies or defects discovered by the OWNER with respect to the services to be rendered by CONSULTANT hereunder.

3.3. CONSULTANT acknowledges that access to the Project Site, to be arranged by OWNER for CONSULTANT, may be provided during times that are not the normal business hours of the CONSULTANT.

3.4. OWNER shall be responsible for the acquisition of all easements, property sites, rights-of-way, or other property rights required for the Project and for the costs thereof, including the costs of any required land surveys in connection with such acquisition.

#### **ARTICLE FOUR TIME**

4.1. Services to be rendered by CONSULTANT shall be commenced subsequent to the execution of this Agreement upon written Notice to Proceed from OWNER for all or any designated portion of the Project and shall be performed and completed **within 18 months from the written issuance of the notice to proceed**, in accordance with the Project Schedule attached hereto and made a part hereof as Exhibit C. Time is of the essence with respect to the performance of this Agreement.

4.2. Should CONSULTANT be obstructed or delayed in the prosecution or completion of its services as a result of unforeseeable causes beyond the control of CONSULTANT, and not due to its own fault or neglect, including but not restricted to acts of God or of public enemy, acts of government or of the OWNER, fires, floods, epidemics, quarantine regulations, strikes or lock-outs, then CONSULTANT shall notify OWNER in writing within five (5) working days after commencement of such delay, stating the cause or causes thereof, or be deemed to have waived any right which CONSULTANT may have had to request a time extension.

4.3. No interruption, interference, inefficiency, suspension or delay in the commencement or progress of CONSULTANT's services from any cause whatsoever, including those for which OWNER may be responsible in whole or in part, shall relieve CONSULTANT of its duty to perform or give rise to any right to damages or additional compensation from OWNER. CONSULTANT's sole remedy against OWNER will be the right to seek an extension of time to its schedule. This paragraph shall expressly apply to claims for early completion, as well as claims based on late completion. Provided, however, if through no fault or neglect of the CONSULTANT, the services to be provided hereunder have not been completed within at least 12 months of the date hereof, the CONSULTANT's compensation may be equitably adjusted, with respect to those services that have not yet been performed, to reflect the incremental increase in costs experienced by CONSULTANT after expiration of said twelve month period.

4.4. Should the CONSULTANT fail to commence, provide, perform or complete any of the services to be provided hereunder in a timely and reasonable manner, in addition to any other rights or remedies available to the OWNER hereunder, the OWNER at its sole discretion and option may withhold any and all payments due and owing to the CONSULTANT until such time as the CONSULTANT resumes

performance of its obligations hereunder in such a manner so as to reasonably establish to the OWNER's satisfaction that the CONSULTANT's performance is or will shortly be back on schedule.

## **ARTICLE FIVE COMPENSATION**

5.1. Compensation and the manner of payment of such compensation by the OWNER for services rendered hereunder by CONSULTANT shall be **an amount not to exceed \$119,348.00** as prescribed in Exhibit B, entitled "Basis of Compensation", which is attached hereto and made a part hereof.

## **ARTICLE SIX OWNERSHIP OF DOCUMENTS**

6.1. Upon completion or termination of this Agreement, all records, documents, tracings, plans, specifications, maps, evaluations, reports, computer assisted design or drafting disks and other technical data, other than working papers, prepared or developed by CONSULTANT under this Agreement shall be delivered to and become the property of OWNER. CONSULTANT, at its own expense, may retain copies for its files and internal use. OWNER agrees to indemnify and hold harmless CONSULTANT with respect to any claim, loss or damage, including attorneys fees incurred by CONSULTANT due to the OWNER's use of said records, documents, tracings, plans, specifications, maps, evaluations, reports, computer disks and other technical data on some other project unless such use is authorized by CONSULTANT.

6.2. With respect to and in consideration for the indemnification provided by OWNER in paragraphs 6.1. above, CONSULTANT agrees to pay to OWNER \$10.00, the sufficiency and receipt of which is acknowledged through the signing of this Agreement.

## **ARTICLE SEVEN MAINTENANCE OF RECORDS**

7.1. CONSULTANT will keep adequate records and supporting documentation which concern or reflect its services hereunder. The records and documentation will be retained by CONSULTANT for a minimum of five (5) years from the date of termination of this Agreement or the date the Project is completed, whichever is later. OWNER, or any duly authorized agents or representatives of OWNER, shall have the right to audit, inspect and copy all such records and documentation as often as they deem necessary during the period of this Agreement and during the five (5) year period noted above; provided, however, such activity shall be conducted only during normal business hours.

## **ARTICLE EIGHT INDEMNIFICATION**

8.1. The CONSULTANT (or Design Professional) agrees to indemnify and hold harmless the City, and its officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the Consultant and other persons employed or utilized by Consultant in the performance of the contract.

8.2. CONSULTANT acknowledges that the general conditions of any contract shall include language, satisfactory to the OWNER's attorney, in which the contractor agrees to hold harmless and to defend OWNER, its agents and employees from all suits and actions, including attorney's fees, and all costs of litigation and judgments of any name and description arising out of or incidental to the performance of the construction contract or work performed thereunder.

## **ARTICLE NINE INSURANCE**

9.1. CONSULTANT shall obtain and carry, at all times during its performance under the Contract Documents, insurance of the types and in the amounts set forth in EXHIBIT D to this Agreement.

## **ARTICLE TEN SERVICES BY CONSULTANT'S OWN STAFF**

10.1. The services to be performed hereunder shall be performed by CONSULTANT's own staff, unless otherwise authorized in writing by the OWNER. The employment of, contract with, or use of the services of any other person or firm by CONSULTANT, as independent consultant or otherwise, shall be subject to the prior written approval of the OWNER. No provision of this Agreement shall, however, be construed as constituting an agreement between the OWNER and any such other person or firm. Nor shall anything contained herein be deemed to give any such party or any third party any claim or right of action against the OWNER beyond such as may otherwise exist without regard to this Agreement.

## **ARTICLE ELEVEN WAIVER OF CLAIMS**

11.1. CONSULTANT's acceptance of final payment shall constitute a full waiver of any and all claims, except for insurance company subrogation claims, by it against OWNER arising out of this Agreement or otherwise related to the Project, except those previously made in writing and identified by CONSULTANT as unsettled at the time of the final payment. Neither the acceptance of CONSULTANT's services nor payment by OWNER shall be deemed to be a waiver of any of OWNER's rights against CONSULTANT.

## **ARTICLE TWELVE TERMINATION OR SUSPENSION**

12.1. CONSULTANT shall be considered in material default of this Agreement and such default will be considered cause for OWNER to terminate this Agreement, in whole or in part, as further set forth in this section, for any of the following reasons: (a) failure to begin work under the Agreement within the times specified under the Notice(s) to Proceed, or (b) failure to properly and timely perform the services to be provided hereunder or as directed by OWNER, or (c) the bankruptcy or insolvency or a general assignment for the benefit of creditors by CONSULTANT or by any of CONSULTANT's principals, officers or directors, or (d) failure to obey laws, ordinances, regulations or other codes of conduct, or (e) failure to perform or abide by the terms or spirit of this Agreement, or (f) for any other just cause. The OWNER may so terminate this Agreement, in whole or in part, by giving the CONSULTANT seven (7) calendar days written notice.



12.2. If, after notice of termination of this Agreement as provided for in paragraph 12.1 above, it is determined for any reason that CONSULTANT was not in default, or that its default was excusable, or that OWNER otherwise was not entitled to the remedy against CONSULTANT provided for in paragraph 12.1, then the notice of termination given pursuant to paragraph 12.1 shall be deemed to be the notice of termination provided for in paragraph 12.3 below and CONSULTANT's remedies against OWNER shall be the same as and limited to those afforded CONSULTANT under paragraph 12.3 below.

12.3. OWNER shall have the right to terminate this Agreement, in whole or in part, without cause upon seven (7) calendar day's written notice to CONSULTANT. In the event of such termination for convenience, CONSULTANT's recovery against OWNER shall be limited to that portion of the fee earned through the date of termination, together with any retainage withheld and any costs reasonably incurred by CONSULTANT that are directly attributable to the termination, but CONSULTANT shall not be entitled to any other or further recovery against OWNER, including, but not limited to, anticipated fees or profits on work not required to be performed.

12.4. Upon termination, the CONSULTANT shall deliver to the OWNER all original papers, records, documents, drawings, models, and other material set forth and described in this Agreement.

12.5. The OWNER shall have the power to suspend all or any portions of the services to be provided by CONSULTANT hereunder upon giving CONSULTANT two (2) calendar days prior written notice of such suspension. If all or any portion of the services to be rendered hereunder are so suspended, the CONSULTANT's sole and exclusive remedy shall be to seek an extension of time to its schedule in accordance with the procedures set forth in Article Four herein.

### **ARTICLE THIRTEEN TRUTH IN NEGOTIATION REPRESENTATIONS**

13.1. CONSULTANT warrants that CONSULTANT 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 CONSULTANT 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 any other consideration contingent upon or resulting from the award or making of this Agreement.

13.2. In accordance with provisions of Section 287.055, (5)(a), Florida Statutes, the CONSULTANT agrees to execute the required Truth-In-Negotiation Certificate, attached hereto and incorporated herein as Exhibit E, stating that wage rates and other factual unit costs supporting the compensation are accurate, complete and current at the time of the Agreement. The CONSULTANT agrees that the original Agreement price and any additions thereto shall be adjusted to exclude any significant sums by which the OWNER determines the Agreement price was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs. All such adjustments shall be made within one (1) year following the end of this Agreement.

**ARTICLE FOURTEEN  
CONFLICT OF INTEREST**

14.1. CONSULTANT represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required hereunder. CONSULTANT further represents that no persons having any such interest shall be employed to perform those services.

**ARTICLE FIFTEEN  
MODIFICATION**

15.1. No modification or change in this Agreement shall be valid or binding upon the parties unless in writing and executed by the party or parties intended to be bound by it.

**ARTICLE SIXTEEN  
NOTICES AND ADDRESS OF RECORD**

16.1. All notices required or made pursuant to this Agreement to be given by the CONSULTANT to the OWNER shall be in writing and shall be delivered by hand or by United States Postal Service Department, first class mail service, postage prepaid, return receipt requested, addressed to the following

OWNER's address of record:  
City Council  
City of Naples  
735 Eighth Street South  
Naples, FL 34102-3796  
Attention: A. William Moss, City Manager

16.2. All notices required or made pursuant to this Agreement to be given by the OWNER to the CONSULTANT shall be made in writing and shall be delivered by hand or by the United States Postal Service Department, first class mail service, postage prepaid, return receipt requested, addressed to the following CONSULTANT's address of record:

CONSULTANT's address of record:  
**Johnson Engineering, Inc.**  
**2122 Johnson Street**  
**Fort Myers, FL 33901**  
Attention: **Michael S. Dickey, P.E.**

16.3. Either party may change its address of record by written notice to the other party given in accordance with requirements of this Article.

**ARTICLE SEVENTEEN  
MISCELLANEOUS**

17.1. CONSULTANT, in representing OWNER, shall promote the best interest of OWNER and assume towards OWNER a duty of the highest trust, confidence, and fair dealing.

17.2. No modification, waiver, suspension or termination of the Agreement or of any terms thereof shall impair the rights or liabilities of either party.

17.3. This Agreement is not assignable, in whole or in part, by CONSULTANT without the prior written consent of OWNER.

17.4. Waiver by either party of a breach of any provision of this Agreement shall not be deemed to be a waiver of any other breach and shall not be construed to be a modification of the terms of this Agreement.

17.5. The headings of the Articles, Exhibits, Parts and Attachments as contained in this Agreement are for the purpose of convenience only and shall not be deemed to expand, limit or change the provisions in such Articles, Exhibits, Parts and Attachments.

17.6. This Agreement, constitutes the entire agreement between the parties hereto and shall supersede, replace and nullify any and all prior agreements or understandings, written or oral, relating to the matter set forth herein, and any such prior agreements or understanding shall have no force or effect whatever on this Agreement.

17.7. The CONTRACTOR shall comply fully with all provisions of state and federal law, including without limitation all provisions of the Immigration Reform and Control Act of 1986 ("IRCA") as amended, as well as all related immigration laws, rules, and regulations pertaining to proper employee work authorization in the United States. The CONTRACTOR shall execute the Certification of Compliance with Immigration Laws, attached hereto as **Exhibit "F"**.

## **ARTICLE EIGHTEEN APPLICABLE LAW**

18.1. Unless otherwise specified, this Agreement shall be governed by the laws, rules, and regulations of the State of Florida, and by the laws, rules and regulations of the United States when providing services funded by the United States government. Any suit or action brought by either party to this Agreement against the other party relating to or arising out of this Agreement must be brought in the appropriate Florida state court in Collier County, Florida.

IN WITNESS WHEREOF, the parties hereto have executed this Professional Services Agreement for the day and year first written above.

ATTEST:

OWNER:  
CITY OF NAPLES, FLORIDA,  
A MUNICIPAL CORPORATION

By: \_\_\_\_\_  
City Clerk

By: \_\_\_\_\_  
A. William Moss, City Manager

Approved as to form and  
legal sufficiency:

\_\_\_\_\_  
Robert D. Pritt, City Attorney

CONSULTANT:  
Johnson Engineering, Inc.  
A Florida Corporation

By:  
Printed Name  
Title:

(CORPORATE SEAL)

\_\_\_\_\_  
witness

Consultant Services Agreement  
115798\_1.WP5  
Revised 7/8/03

EXHIBIT A  
SCOPE OF SERVICES



SINCE 1946

February 16, 2010

Mr. Robert Middleton  
Utilities Director  
City of Naples  
380 Riverside Circle  
Naples, FL 34102

Re: Proposed Scope and Fee  
Design of Wastewater Collection System Construction Management & Inspection  
14<sup>th</sup> Avenue North, 13<sup>th</sup> Avenue North and Bembury Subdivision

Dear Mr. Middleton:


Johnson Engineering, Inc. is pleased to provide our proposed scope and fee for the above referenced project. Attached please find the following documents for your review:

- Exhibit A – Scope of Professional Services
- Exhibit B – Compensation
- Exhibit C – Construction Observation Services
- Exhibit D – Special Provisions

If you have any comments or questions regarding this proposal, please do not hesitate to contact me. I look forward to working with you on this project.

Very truly yours,

JOHNSON ENGINEERING, INC.

  
Michael S. Dickey, P.E.  
Director of Utilities Services

MSD/ljm  
Enclosures

## Exhibit A

### SCOPE OF PROFESSIONAL SERVICES

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Services not set forth in this Exhibit A, or not listed or described herein, are expressly excluded from the Scope of the Professional Services of the CONSULTANT. The CONSULTANT assumes no responsibility to perform any services not specifically identified and/or otherwise described in this Exhibit A.

#### PROJECT DESCRIPTION:

Project will consist of approximately 3,550 lineal feet of 8" gravity sewer and one pump station to provide sewer service to approximately 50 residential homes along 14<sup>th</sup> Avenue North, 13<sup>th</sup> Avenue North and Bembury Drive located in Naples, Florida.

CONSULTANT will provide professional services to OWNER for the survey, design, permitting, bidding and construction phase services for this project. The following tasks will be performed:

#### PROFESSIONAL SERVICES OF THE CONSULTANT:

##### TASK INDEX

- 1.00 Project Management
- 2.00 Survey
- 3.00 Design Phase
- 4.00 Permitting
- 5.00 Geotechnical Investigation
- 6.00 Post Design Services
- 7.00 Reimbursables

#### TASK 1.00 PROJECT MANAGEMENT

The CONSULTANT will be involved with project management with the OWNER which shall include the following:

- 1.01 Initial Kick-Off Meeting – The CONSULTANT will attend an initial kick-off meeting with the staff of various OWNER departments to review project objectives and standards for completing the work. The CONSULTANT shall prepare a written meeting memorandum summarizing the discussion and project action plan.
- 1.02 Project Timeline/Staffing Plan – CONSULTANT will prepare an initial project timeline and submit to the OWNER at the Initial Kick-Off Meeting. The CONSULTANT shall update the schedule throughout the duration of the project and shall provide a copy of the updated schedule to the OWNER at each monthly progress meeting.
- 1.03 Attend up to four (4) monthly team meetings during design phase.
- 1.04 Collier County Pre-Design Meeting – The CONSULTANT will attend a pre-design meeting with Collier County to review proposed alignment and identify issues and

permitting requirements for project related to work within the County right-of-way. The CONSULTANT shall prepare written meeting memoranda including a discussion about the impact of the meeting on the project.

- 1.05 Project Review Meetings - Meeting with OWNER's staff to present and review 30%, 60% and 90% design. Participate with OWNER's staff to generate suggestions and comments to incorporate into the design.

#### **TASK 2.00 SURVEY**

CONSULTANT will provide design survey services to include:

- 2.01 Research the public records for plats, deeds and right-of-way maps to compile a horizontal control search map for the field crew to utilize. Locate with Global Positioning System (GPS) and traditional field surveying methods existing permanent reference monuments, right of way control monuments, abutting property corners and section corners along the proposed wastewater collection system improvements route to establish horizontal control for the project. Horizontal survey datum will be NAD 1983.
- 2.02 Set survey baselines in relation to the survey control found in Item 2.01 above.
- 2.03 Establish vertical control by running a level loop along the project baselines, setting a benchmark every 500 feet. Vertical datum will be NGVD 1929.
- 2.04 Collect topographic information along streets and at street intersections and driveways. Elevations along streets will generally be provided at 100-foot intervals, or more frequently where the topography requires.
- 2.05 Locate existing visible utility features, such as manholes, valve covers, meter boxes, etc., power poles, trees, fences or buildings near right-of-ways and storm drainage structures, including invert elevations. Drainage structures will include culverts under roadway crossings, if any.
- 2.06 Prepare up to two (2) sketches and legal descriptions for lift station, if required.

#### **TASK 3.00 – DESIGN PHASE**

CONSULTANT will provide services to include:

- 3.01 Prepare a base map using survey information obtained in Task 2. The aerial images to be utilized for this project shall be imagery which CONSULTANT currently has available in-house (2008 or later), (1:40 scale) on 11" x 17" sheets showing existing topographic features in a format suitable for preparation of plan and profile sheets.
- 3.02 Utility Coordination – Consultant shall coordinate with utility service providers to identify potential conflicts with proposed wastewater improvements.
- 3.03 **30% DESIGN PLANS.** Prepare 30% design plans for the project that will depict existing topographical features, existing right-of-way and easement lines, proposed

gravity sewer location (plan view only), pump station and force main location, and contain the following:

- a. Cover Sheet
- b. Proposed typical section or sections.
- c. Existing corridor plan of proposed gravity sewer and force main alignment, including major connection points and major conflicts.
- d. Order of Magnitude Cost Opinion – The CONSULTANT shall submit and Order of Magnitude Cost Opinion for the cost of constructing the project. Provide a copy to the OWNER.

The CONSULTANT shall submit to the OWNER three (3) sets of prints (11"x17") for review purposes.

**3.04 60% DESIGN PLANS.** Prepare 60% design plans for the project that depict existing topographical features, existing utilities, existing right-of-way, property boundary and easement lines, proposed gravity (plan & profile), pump station and force main details, and contain the following:

- a. Cover Sheet
- b. Plan and Profile View of gravity sewer alignment at 1" = 40' horizontal and 1" = 4' vertical on 11" x 17" sheets, unless otherwise agreed to in writing.
- c. Pump station design.
- d. Proposed Details for wastewater system and pump station.
- e. Cost Opinion – The CONSULTANT will prepare an Engineer's Opinion of Probable Construction Costs for the proposed improvements. Provide three (3) copies to the OWNER.

**3.05 90% DETAILED PLANS**

- a. 90% Plans – Prepare 90% Plans, including: Key Sheet, Plan and Profile sheets, Gravity Sewer Details. The CONSULTANT shall submit to the OWNER three (3) sets of prints (11" x 17") for review purposes.
- b. Construction Cost Opinion. The CONSULTANT will prepare a Construction Cost Opinion based upon the 90% Construction Plans.

**3.06 100% CONSTRUCTION DOCUMENTS**

- a. Assistance with Technical specifications and Bid Documents. The CONSULTANT will assist OWNER with preparation of Technical specifications and Bid Documents. The CONSULTANT shall review the documents prepared by the OWNER and provide assistance with supplemental conditions, if appropriate.



- d. Construction Plans – The CONSULTANT will revise plans to incorporate permit conditions from permitting agency. The CONSULTANT shall submit to the OWNER three (3) sets of prints (11” x 17”) for review purposes. Upon acceptance, the CONSULTANT shall submit in electronic format (DWG and PDF).

**TASK 4.00 – PERMITTING\*†**

- 4.01 The CONSULTANT will be responsible for preparing and submitting all required applications and other supportive information necessary to assist the OWNER in obtaining all reviews, approvals and permits, with respect to the CONSULTANT’S design, drawings and specifications required by any governmental body having authority over the project. This will include the following permits:
  - a. Collier County Limited Right-of-Way Permit
  - b. FDEP Wastewater Permit

**TASK 5.00 - GEOTECHNICAL INVESTIGATION**

The CONSULTANT shall furnish soils investigation and analysis necessary for the design and preparation of construction plans for this project. A report shall be prepared with recommendations and pertinent soils data, including the water table, rock depths, along with geotechnical information for the pump station and shall be submitted to the OWNER for its record. A draft copy of all reports shall be submitted to the OWNER for its review and approval prior to project design completion.

- 5.01 **Field Operations** – To define subsurface soil and groundwater conditions along the proposed gravity sewer pipe alignment, SUBCONSULTANT will perform the following:
  - a. Mobilize drilling crew and equipment to perform 11 Standard Penetration Test (SPT) borings advanced to a depth of 15 feet. Borings will be spaced on approximately 300-foot centers. At the proposed pump station, one SPT boring advanced to a depth of 25 feet will be performed.
  - b. Locate boring in the street or just off the edge of pavement. Coordinate with all underground utility companies before drilling. All boreholes will be backfilled with neat cement and then plugged with asphaltic concrete if in the street.
- 5.02 **Laboratory Analysis** - Representative samples obtained during the field exploration program will be examined to obtain more accurate descriptions of the existing strata. Laboratory testing will be performed on selected samples as deemed necessary to aid in soil classification and to further define the engineering properties of the encountered materials. The soil descriptions will be based on the visual classification procedure in general accordance with the AASHTO Soil Classification System (AASHTO M 145) and standard practice.

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\* All permit application fees are the responsibility of the OWNER.

† It is recognized by the OWNER that permitting is a regulatory function and CONSULTANT does not guarantee issuance any permit.

- 5.03 Engineering Coordination, Analysis and Report Preparation** – Engineering and technical support services will be required to prepare an engineering report. This report will present the results of findings as typed boring logs and an overview of subsurface conditions as encountered in the test borings. Three (3) copies of the report shall be submitted to the CONSULTANT.

The CONSULTANT will coordinate with the OWNER to determine if additional borings are necessary based on the initial geotechnical information obtained. Additional services will be required to obtain more borings along the corridor if they are determined to be needed.

**TASK 6.00 - POST DESIGN SERVICES**

After approval of construction plans and bidding documents by the OWNER, the CONSULTANT shall perform the following services:

- 6.01** Attend and participate with the OWNER in scheduling and presenting a Pre-Bid Conference.
- 6.02** Respond to Bidders' inquiries and prepare up to two (2) addenda for issuance by the OWNER.
- 6.03** Evaluate the bids received by the OWNER and provide written recommendations to the OWNER.
- 6.04** The CONSULTANT shall attend a pre-construction conference and produce the follow up minutes of the meeting.

**TASK 7 – REIMBURSABLES**

CONSULTANT will provide deliverables that will include, but is not limited to the following: courier and express delivery charges, reproduction of plans and reports, photography, field supplies and costs of other materials and/or equipment specifically used for and solely applicable to this project.

**SUB-CONSULTANT SERVICES:**

Ardaman & Associates  
9970 Bavaria Road  
Fort Myers, FL 33913

## **TASK 8 - CONSTRUCTION CONTRACT ADMINISTRATION**

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### **8.01 General Administration of Construction Contract:**

CONSULTANT shall consult with and advise OWNER and act as OWNER's representative as provided in the Standard General Conditions of the Construction Contract Documents. The extent and limitations of the duties, responsibilities and authority of CONSULTANT as assigned in said Standard General Conditions shall not be modified, except to the extent provided in Exhibit A and except as CONSULTANT may otherwise agree in writing. All of OWNER's instructions to Contractor will be issued through CONSULTANT who shall have authority to act on behalf of OWNER in dealings with Contractor to the extent provided in this Agreement and said Standard General Conditions except as otherwise provided in writing.

### **8.02 Visits to Site and Observation of Construction:**

In connection with observations of the work of Contractor while it is in progress:

CONSULTANT shall make visits to the site at intervals appropriate to the various stages of construction as CONSULTANT deems necessary in order to observe as a design professional the general progress and quality of the various aspects of Contractor's work. Such visits and observations by CONSULTANT are not intended to be exhaustive or to extend to every aspect of the work in progress, or to involve detailed inspections of the work beyond the responsibilities specifically assigned to CONSULTANT in this Agreement and the Contract Documents. Based on information obtained during such visits and such observations, CONSULTANT shall endeavor to determine in general if such work is proceeding in accordance with the design concept and the design information shown in the Contract Documents and CONSULTANT shall keep OWNER informed of the progress of such work. The responsibilities of CONSULTANT contained in this paragraph are expressly subject to the limitations set forth and other express or general limitations in this Agreement.

CONSULTANT shall not, during such visits or as a result of such observations of Contractor's work in progress, supervise, direct or have control over Contractor's work nor shall CONSULTANT have authority over or responsibility for the means, methods, techniques, sequences or procedures of construction selected by Contractor, for safety precautions and programs incident to the work of Contractor or for any failure of Contractor to comply with laws, rules, regulations, ordinances, codes or orders applicable to Contractor's furnishing and performing the work. Accordingly, CONSULTANT neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform its work in accordance with the Contract Documents.

### **8.03 Clarifications and Interpretations; Field Orders:**

CONSULTANT shall issue necessary clarifications and interpretations of the Contract Documents as appropriate to the orderly completion of the work. Such clarifications and interpretations will be consistent with the intent of and reasonably inferable from the Contract Documents. CONSULTANT may issue Field Orders authorizing minor variations from the requirements of the Contract Documents.



**8.04 Change Orders and Work Change Directives:**

CONSULTANT shall recommend Change Orders and Work Change Directives to OWNER as appropriate, and shall prepare Change Orders and Work Change Directives as required.

**8.05 Shop Drawings:**

CONSULTANT shall review and approve (or take other appropriate action in respect of) Shop Drawings and Samples and other data which Contractor is required to submit, but only for conformance with the design information given in the Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated in the Contract Documents. Such reviews and approvals or other action will not extend to means, methods, techniques, sequences or procedures of construction or to safety precautions and programs incident thereto. This review shall not include review of the accuracy or completeness of details, such as quantities, dimensions, weights or gauges, fabrication processes, construction means or methods, coordination of the work with other trades or construction safety precautions, all of which are the sole responsibility of the Contractor. Review of a specific item shall not indicate the CONSULTANT has reviewed the entire assembly of which the item is a component. CONSULTANT shall not be responsible for any deviations from the Contract Documents not brought to the attention of the CONSULTANT in writing by the Contractor. CONSULTANT shall not be required to review partial submissions or those for which submissions of correlated items have not been received.

a. **Substitutes:** CONSULTANT shall evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor.

**8.06 Inspections and Tests:**

CONSULTANT may require special inspections or tests of the work, and shall receive and review all certificates of inspections, tests and approvals required by laws, rules, regulations, ordinances, codes, orders or the Contract Documents. CONSULTANT's review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests or approvals comply with the requirements of the Contract Documents. CONSULTANT shall be entitled to rely on the results of such tests.

**8.07 Applications for Payment:**

Based on CONSULTANT's on-site observations as an experienced and qualified design professional and on review of Applications for Payment and the accompanying data and schedules:

CONSULTANT shall determine the amounts that CONSULTANT recommends Contractor be paid. Such recommendations of payment will be in writing and will constitute CONSULTANT's representation to OWNER, based on such observations and review, that to the best of CONSULTANT's knowledge, information and belief, the work has progressed to the point indicated, the quality of such work is generally in accordance with the design information Contract Documents (subject to an evaluation of such work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents and to any other qualifications stated in the CONSULTANT's recommendations), and the conditions precedent to

Contractor's being entitled to such payment appear to have been fulfilled. In the case of unit price work, CONSULTANT's recommendations of payment will include final determinations of quantities and classifications of such work (subject to any subsequent adjustments allowed by the Contract Documents).

By recommending any payment CONSULTANT shall not thereby be deemed to have represented that on-site observations made by CONSULTANT to check the quality or quantity of Contractor's work as it is performed and furnished have been exhaustive, extended to every aspect of the work in progress, or involved detailed inspections of the work beyond the responsibilities specifically assigned to CONSULTANT in this Agreement and the Contract Documents. Neither CONSULTANT's review of Contractor's work for the purposes of recommending payments nor CONSULTANT's recommendation of any payment (including final payment) will impose on CONSULTANT responsibility to supervise, direct or control such work or for the means, methods, techniques, sequences or procedures of construction or safety precautions or programs incident thereto, or Contractor's compliance with laws, rules, regulations, ordinances, codes or orders applicable to Contractor's furnishing and performing the work. It will also not impose responsibility on CONSULTANT to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, or to determine that title to any of the work, materials or equipment has passed to OWNER free and clear of any liens, claims, security interests or encumbrances, or that there may not be other matters at issue between OWNER and Contractor that might affect the amount that should be paid.

**8.08 Contractor's Completion Documents:**

CONSULTANT shall receive, review and transmit to OWNER with written comments maintenance and operating instructions, schedules, Guarantees Bonds, certificates or other evidence of insurance required by the Contract Documents, certificates of inspection, tests and approvals, and marked up record documents (including Shop Drawings, Samples and marked-up record Drawings) which are to be assembled by Contractor in accordance with the Contract Documents to obtain final payment. CONSULTANT's review of such documents will only be to determine generally to the best of CONSULTANT's knowledge, information and belief that their content complies with the requirements of (and in the case of certificates of inspections, tests and approvals that the results certified indicate compliance with) the Contract Documents.

**8.09 Substantial Completion:**

Following notice from Contractor that Contractor considers the entire work ready for its intended use, CONSULTANT and OWNER, accompanied by Contractor, shall conduct an inspection to determine if the work is substantially complete. If after considering any objections of OWNER, CONSULTANT considers the work substantially complete, to the best of CONSULTANT's knowledge, information and belief per the conditions above, CONSULTANT shall deliver a certificate of Substantial Completion to OWNER and Contractor.

**8.10 Final Notice of Acceptability of the Work:**

CONSULTANT shall conduct a final inspection to determine if the completed work of Contractor is acceptable so that CONSULTANT may recommend, in writing, final payment to Contractor. Accompanying the recommendation for final payment, CONSULTANT shall also provide a notice that the work is acceptable (subject to the

provisions of the preceding paragraphs) to the best of CONSULTANT's knowledge, information and belief and based on and limited the extent of the services performed and furnished by CONSULTANT under this Agreement.

**8.11 Record Drawings:**

Prepare Record Drawings based on information provided by contractor.

**8.12 Project Certification:**

Certify project completion to the various permitting agencies and submit request to place into service to the FDEP.

**Limitation of Responsibilities:**

In addition to the limitation of responsibilities of CONSULTANT as detailed in this Agreement, CONSULTANT shall not supervise, direct or have control over Contractor's work, nor have any responsibility for the construction means, methods, techniques, sequences or procedures selected by Contractor nor for Contractor's safety, precautions or programs in connection with the work. These rights and responsibilities are solely those of Contractor in accordance with Contract Documents. CONSULTANT shall not be responsible for any acts or omissions of Contractor, Sub-Contractor, any entity performing any portions of their work, or any agents or employees, if any of them. CONSULTANT does not guarantee the performance of Contractor and shall not be responsible for Contractor's failure to perform its work in accordance with the Contract Documents or any applicable laws, codes, rules or regulations.

**Disagreements between OWNER and Contractor:**

CONSULTANT shall render the initial decisions on all claims of OWNER and Contractor relating to the acceptability of the work or the interpretation of the requirements of the Contract Documents pertaining to the execution and progress of the work. In rendering such decisions, CONSULTANT shall be fair and not show partiality to OWNER or Contractor and shall not be liable in connection with any decision rendered in good faith in such capacity.

**Duration of Construction Phase:**

The Construction Phase will commence with the execution of the construction contract for the Project or any part thereof and will terminate upon the earlier of six (6) months after commencement or the written recommendation by CONSULTANT of final payment unless otherwise agreed to by the CONSULTANT and OWNER in writing.

## **SPECIAL PROVISIONS**

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This Professional Services Agreement is based on CONSULTANT providing part-time construction administration for a construction period of up to 6 months. CONSULTANT will provide sufficient construction management and observation to certify project completion with the various permitting agencies and with the OWNER as outlined under Exhibit C herein.

Exhibit D  
END OF EXHIBIT A

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REVISED 8/7/07



**Exhibit B**

**COMPENSATION**

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**Definitions:**

**Lump Sum (LS):** Includes all direct and indirect labor costs, personnel related costs, overhead and administrative costs, which may pertain to the services performed, provided and/or furnished by the CONSULTANT as may be required to complete the services in Exhibit A. The total amount of compensation to be paid the CONSULTANT shall not exceed the amount of the total Lump Sum compensation established and agreed to. The portion of the amount billed for CONSULTANT'S services which is on account of the Lump Sum will be based upon CONSULTANT'S estimate of the proportion of the total services actually completed at the time of billing.

**Time and Materials (T&M):** For the actual hours expended by the CONSULTANT'S professional and technical personnel, multiplied by the applicable hourly rates for each classification or position on the CONSULTANT'S standard billing rate schedule in effect at the time the services are rendered. The current standard billing rate schedule is attached to this Exhibit B as Attachment No. 1. For the services of CONSULTANT'S Sub-Consultants engaged to perform or furnish services in Exhibit A, the amount billed to CONSULTANT therefore times a factor of 1.10. The amount payable for Reimbursable Expenses will be the charge actually incurred by or imputed cost allocated by CONSULTANT, therefore times a factor of 1.10.

**Not-To-Exceed (NTE):** For the actual hours expended by the CONSULTANT'S professional and technical personnel, multiplied by the applicable hourly rates for each classification or position on the CONSULTANT'S standard billing rate schedule in effect at the time the services are rendered. The current standard billing rate schedule is attached to this Exhibit B as Attachment No. 1. For the services of CONSULTANT'S Sub-Consultants engaged to perform or furnish services in Exhibit A, the amount billed to CONSULTANT therefore times a factor of 1.10. The amount payable for Reimbursable Expenses will be the charge actually incurred by or imputed cost allocated by CONSULTANT, therefore times a factor of 1.10. The total amount of compensation to be paid the CONSULTANT shall not exceed the amount of the total Not-To-Exceed compensation established and agreed to.

**Estimated Fees:** CONSULTANT'S estimate of the amount that will become payable for Services (including CONSULTANT'S Sub-Consultants and reimbursable expenses) is only an estimate for planning purposes, is not binding on the parties and is not the maximum amount payable to CONSULTANT for the services under this Agreement. Notwithstanding the fact that the estimated amount for the services is exceeded, CONSULTANT shall receive compensation for all Services furnished or performed under this Agreement.

If it becomes apparent to CONSULTANT at any time before the Services to be performed or furnished under this Agreement are about eighty percent complete that the total amount of compensation to be paid to CONSULTANT on account of these Services will exceed CONSULTANT'S estimate, CONSULTANT shall endeavor to give OWNER written notice thereof. Promptly thereafter OWNER and CONSULTANT shall review the matter of compensation for such Services, and either OWNER shall accede to such compensation exceeding said estimated amounts or OWNER and CONSULTANT shall agree to a reduction in the remaining services to be rendered by CONSULTANT under this Agreement so that total compensation for such Services will not exceed said estimated amount when such services are completed. The CONSULTANT shall be paid for all services rendered if CONSULTANT exceeds the estimated amount before OWNER and CONSULTANT have agreed to an increase in the compensation due to CONSULTANT or a reduction in the remaining services.



EXHIBIT B – ATTACHMENT A

SCHEDULE OF FEES FOR BASIC SERVICE

For services provided and performed by CONSULTANT for providing and performing the Task(s) set forth and enumerated in Exhibit A entitled "Scope of Services", the OWNER shall compensate the CONSULTANT as follows:

TASK	ITEM	AMOUNT (Estimated if T&M)	FEE TYPE (LS;T&M; NTE)
1.00	Project Management (Exhibit A)	10,470	LS
2.00	Survey (Exhibit A)	22,120	LS
3.00	Design Phase (Exhibit A)	40,300	LS
4.00	Permitting (Exhibit A)	7,320	LS
6.00	Post Design Services (Exhibit A)	6,640	LS
8.00	Construction Contract Administration (Exhibit C)	21,500	NTE
<b>TOTAL COMPENSATION FOR CONSULTANT'S SERVICES:</b>		<b>\$108,350.00</b>	<b>LS/NTE</b>

For services of CONSULTANT's Sub-Consultants engaged to perform or furnish services, the OWNER shall compensate the CONSULTANT as follows:

TASK	SUB-CONSULTANT	AMOUNT (Estimated if T&M)	FEE TYPE (LS;T&M; NTE)
5.00	Geotechnical Investigation	\$5,998	NTE
<b>TOTAL COMPENSATION FOR SUB-CONSULTANT SERVICES:</b>		<b>\$5,998.00</b>	<b>NTE</b>

For reimbursable expenses of CONSULTANT, the OWNER shall compensate the CONSULTANT as follows:

REIMBURSABLE EXPENSES	AMOUNT (Estimated if T&M)	FEE TYPE (LS;T&M; NTE)
Task 7.00 Reimbursables (Exhibit A)	\$5,000	NTE
<b>TOTAL COMPENSATION FOR REIMBURSABLE EXPENSES:</b>	<b>\$5,000.00</b>	<b>NTE</b>

<b>TOTAL COMPENSATION INCLUDING SUB-CONSULTANT &amp; REIMBURSABLE EXPENSES:</b>	<b>\$119,348.00</b>	<b>LS/NTE</b>
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EXHIBIT B - ATTACHMENT B  
CONSULTANT'S EMPLOYEE HOURLY RATE SCHEDULE

**ATTACHMENT 1 TO EXHIBIT B**  
**CONSULTANT'S HOURLY RATE SCHEDULE**  
Effective July 1, 2009

**PROFESSIONAL SERVICES**

Principal	\$ 190.00	Per Hour	Principal Ecologist	\$ 170.00	Per Hour
Engineer VIII	\$ 170.00	Per Hour	Ecologist IV	\$ 150.00	Per Hour
Engineer VII	\$ 160.00	Per Hour	Ecologist III	\$ 125.00	Per Hour
Engineer VI	\$ 150.00	Per Hour	Ecologist II	\$ 115.00	Per Hour
Engineer V	\$ 135.00	Per Hour	Ecologist I	\$ 100.00	Per Hour
Engineer IV	\$ 125.00	Per Hour			
Engineer Intern III	\$ 115.00	Per Hour	Expert Witness	\$ 250.00	Per Hour
Engineer Intern II	\$ 105.00	Per Hour			
Engineer Intern I	\$ 95.00	Per Hour	Surveyor and Mapper V	\$ 170.00	Per Hour
			Surveyor and Mapper IV	\$ 150.00	Per Hour
Project Director	\$ 145.00	Per Hour	Surveyor and Mapper III	\$ 125.00	Per Hour
Designer IV	\$ 135.00	Per Hour	Surveyor and Mapper II	\$ 115.00	Per Hour
Designer III	\$ 115.00	Per Hour	Surveyor and Mapper I	\$ 100.00	Per Hour
Designer II	\$ 90.00	Per Hour			
Designer I	\$ 80.00	Per Hour	StarVAC w/Water Truck Four-Man Party	\$ 330.00	Per Hour
			StarVAC w/Water Truck Three-Man Party	\$ 280.00	Per Hour
Technician IV	\$ 100.00	Per Hour	StarVAC w/Four-Man Party	\$ 290.00	Per Hour
Technician III	\$ 75.00	Per Hour	StarVAC w/Three-Man Party	\$ 265.00	Per Hour
Technician II	\$ 65.00	Per Hour			
Technician I	\$ 55.00	Per Hour	Two-Man Field Party	\$ 135.00	Per Hour
			Three-Man Field Party	\$ 160.00	Per Hour
Hydrogeologist V	\$ 150.00	Per Hour	Four-Man Field Party	\$ 170.00	Per Hour
Hydrogeologist IV	\$ 135.00	Per Hour	Hydrographic Field Party	\$ 225.00	Per Hour
Hydrogeologist III	\$ 125.00	Per Hour	GPS Mapping Grade: One-Man Party	\$ 90.00	Per Hour
Hydrogeologist II	\$ 100.00	Per Hour	GPS Mapping Grade: Two-Man Party	\$ 130.00	Per Hour
Hydrogeologist I	\$ 90.00	Per Hour	GPS Mapping Grade: Three-Man Party	\$ 170.00	Per Hour
			GPS Surveying Grade: One or Two-Man Party	\$ 170.00	Per Hour
Environmental Scientist IV	\$ 100.00	Per Hour	GPS Surveying Grade: Three-Man Party	\$ 180.00	Per Hour
Environmental Scientist III	\$ 85.00	Per Hour			
Environmental Scientist II	\$ 65.00	Per Hour	Principal GIS Consultant	\$ 170.00	Per Hour
Environmental Scientist I	\$ 55.00	Per Hour	GIS Consultant IV	\$ 170.00	Per Hour
			GIS Consultant III	\$ 135.00	Per Hour
Principal Planner II	\$ 170.00	Per Hour	GIS Consultant II	\$ 110.00	Per Hour
Principal Planner I	\$ 150.00	Per Hour	GIS Consultant I	\$ 90.00	Per Hour
Senior Planner	\$ 135.00	Per Hour	GIS Technician III	\$ 80.00	Per Hour
Planner IV	\$ 125.00	Per Hour	GIS Technician II	\$ 70.00	Per Hour
Planner III	\$ 110.00	Per Hour	GIS Technician I	\$ 60.00	Per Hour
Planner II	\$ 95.00	Per Hour			
Planner I	\$ 85.00	Per Hour	<b>CONSTRUCTION OBSERVATION SERVICE</b>		
Planning Technician III	\$ 80.00	Per Hour	Senior Project Engineer	\$ 170.00	Per Hour
Planning Technician II	\$ 70.00	Per Hour	Construction Observation Services Manager	\$ 150.00	Per Hour
Planning Technician I	\$ 60.00	Per Hour	Project Administrator	\$ 125.00	Per Hour
			Contract Support Specialist	\$ 110.00	Per Hour
Principal Landscape Architect	\$ 170.00	Per Hour	Senior Construction Observer	\$ 90.00	Per Hour
Managing Landscape Architect	\$ 140.00	Per Hour	Construction Observer III	\$ 75.00	Per Hour
Senior Landscape Architect	\$ 130.00	Per Hour	Construction Observer II	\$ 65.00	Per Hour
Landscape Architect	\$ 120.00	Per Hour	Construction Observer I	\$ 55.00	Per Hour
Senior Landscape Designer	\$ 105.00	Per Hour	Resident Compliance Officer (RSO)	\$ 65.00	Per Hour
Project Landscape Designer	\$ 85.00	Per Hour			
Landscape Designer II	\$ 78.00	Per Hour	<b>REIMBURSABLE EXPENSES</b>		
Landscape Designer I	\$ 72.00	Per Hour	Materials	Cost + 10%	
			Sub-Consultant Services	Cost + 10%	

EXHIBIT B - ATTACHMENT C  
CONSULTANT'S ESTIMATE OF ADDITIONAL SERVICES  
(INCLUDING DETAILED OBSERVATION OF CONSTRUCTION)

ADDITIONAL FEES IF ANY WILL BE NEGOTIATED

EXHIBIT C  
PROJECT SCHEDULE

N/A

EXHIBIT D  
INSURANCE COVERAGE

(1) The amounts and types of insurance coverage shall conform to the following minimum requirements with the use of Insurance Services Office (ISO) forms and endorsements or their equivalents.

(2) The insurance required by this Agreement shall be written for not less than the limits specified herein or required by law, whichever is greater.

(3) Coverages shall be maintained without interruption from the date of commencement of the work until the date of completion and acceptance of the Project by the Owner or as specified in this Agreement, whichever is longer.

(4) Certificates of insurance (3 copies) acceptable to the Owner shall be filed with the Owner within ten (10) calendar days after Notice of Award is received by Contractor/Consultant/Professional. Such certificates shall contain a provision that coverages afforded under the policies will not be canceled or allowed to expire until at least thirty (30) days prior written notice has been given to the Owner.

(5) All insurance coverages of the Contractor/Consultant/Professional shall be primary to any insurance or self insurance program carried by the Owner applicable to this Project.

(6) The acceptance by Owner of any Certificate of Insurance does not constitute approval or agreement by the Owner that the insurance requirements have been satisfied or that the insurance policy shown on the Certificate of Insurance is in compliance with the requirements of this Agreement.

(7) Contractor/Consultant/Professional shall require each of its subcontractors to procure and maintain, until the completion of the subcontractor's work, insurance of the types and to the limits specified in this Section unless such insurance requirements for the subcontractor are expressly waived in writing by the Owner.

(8) Should at any time the Contractor/Consultant/Professional not maintain the insurance coverages required herein, the Owner may terminate the Agreement or at its sole discretion shall be authorized to purchase such coverages and charge the Contractor for such coverages purchased. The Owner shall be under no obligation to purchase such insurance, nor shall it be responsible for the coverages purchased or the insurance company or companies used. The decision of the Owner to purchase such insurance coverages shall in no way be construed to be a waiver of any of its rights under the Contract Documents.

(9) If the initial, or any subsequently issued Certificate of Insurance expires prior to the completion of the Work or termination of the Agreement, the Consultant shall furnish to the City of Naples, in triplicate, renewal or replacement Certificate(s) of Insurance not later than thirty (30) calendar days prior to the date of their expiration. Failure of the Contractor to provide the City of Naples with such renewal certificate(s) shall be considered justification for the City of Naples to terminate the Agreement.

WORKERS' COMPENSATION AND EMPLOYERS LIABILITY

Required by this Agreement? (check one)  Yes  No

(1) Workers' Compensation and Employers' Liability Insurance shall be maintained by the Contractor/Consultant/Professional during the term of this Agreement for all employees engaged in the work under this Agreement in accordance with the laws of the State of Florida. The amounts of such insurance shall not be less than:

a. Worker's Compensation - Florida Statutory Requirements

b. Employers' Liability (check one)

\_\_\_\_ \$100,000 Each Accident  
\$500,000 Disease Aggregate  
\$100,000 Disease Each Employee

  x   \$1,000,000 Each Accident  
\$1,000,000 Disease Aggregate  
\$1,000,000 Disease Each Employee

(2) The insurance company shall waive its Rights of Subrogation against the Owner and the policy shall be so endorsed.

(3) United States Longshoreman's and Harborworker's Act coverage shall be maintained where applicable to the completion of the work. (check one)

Applicable  Not Applicable

(4) Maritime Coverage (Jones Act) shall be maintained where applicable to the completion of the work. (check one)

Applicable  Not Applicable

#### COMMERCIAL GENERAL LIABILITY

Required by this Agreement? (check one)  Yes  No

(1) Commercial General Liability Insurance shall be maintained by the Contractor/Consultant/Professional. Coverage will include, but not be limited to, Bodily Injury, Property Damage, Personal Injury, Contractual Liability for this Agreement, Independent Contractors, Broad Form Property Damage including Completed Operations and Products and Completed Operations Coverage. Products and Completed Operations coverage shall be maintained for a period of not less than five (5) years following the completion and acceptance by the Owner of the work under this Agreement. Limits of Liability shall not be less than the following: (check one)

<input type="checkbox"/> General Aggregate	\$300,000
Products/Completed Operations Aggregate	\$300,000
Personal and Advertising Injury	\$300,000
Each Occurrence	\$300,000
Fire Damage	\$ 50,000

<input type="checkbox"/> General Aggregate	\$500,000
Products/Completed Operations Aggregate	\$500,000
Personal and Advertising Injury	\$500,000
Each Occurrence	\$500,000
Fire Damage	\$ 50,000

<input checked="" type="checkbox"/> General Aggregate	\$1,000,000
Products/Completed Operations Aggregate	\$1,000,000
Personal and Advertising Injury	\$1,000,000
Each Occurrence	\$1,000,000
Fire Damage	\$ 50,000

(2) The General Aggregate Limit shall apply separately to this Project and the policy shall be endorsed using the following endorsement wording. "This endorsement modifies insurance provided under the following: Commercial General Liability Coverage Part. The General Aggregate Limit under LIMITS OF INSURANCE applies separately to each of your projects away from premises owned by or rented to you."

(3) If the General Liability insurance required herein is issued or renewed on a "claims made" basis, as opposed to the "occurrence" form, the retroactive date for coverage shall be no later than the commencement date of the Project and shall provide that in the event of cancellation or non-renewal the Extended Reporting Period (Discovery Period) for claims shall be no less than three (3) years.

(4) The Owner shall be named as an Additional Insured and the policy shall be endorsed that such coverage shall be primary to any similar coverage carried by the Owner.

(5) Coverage shall be included for explosion, collapse or underground property damage claims.

(6) Watercraft Liability coverage shall be carried at the limits shown above if applicable to the completion of the work under this Agreement. (check one)

Applicable  Not Applicable

(7) Aircraft Liability coverage shall be carried at limits of \$2,000,000 each occurrence if applicable to the completion of the

work under this Agreement. (check one)

Applicable  Not Applicable

#### PROPERTY INSURANCE - BUILDERS RISK

(1) Property Insurance - Builders Risk coverage shall be carried by the Owner if applicable. (check one)

Applicable  Not Applicable

(2) The Owner shall purchase and maintain in a company or companies lawfully authorized to do business in the State of Florida, in the City of Naples, and in Collier County, property insurance in the amount of the initial Contract Sum as well as subsequent modifications thereto for the entire Work at the site on a replacement cost basis without voluntary deductibles. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made or until no person or entity other than the Owner has an insurable interest in the property required to be covered, whichever is earlier. This insurance shall include interests of the Owner, the Contractor, Subcontractors, Sub-subcontractors and Material Suppliers in the Work.

(3) Property insurance shall be on an all-risk policy form and shall insure against the perils of fire and extended coverage and physical loss or damage including, without duplication of coverage, theft, wind and hail, vandalism, malicious mischief, collapse, falsework, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and, at the Owner's option, shall cover reasonable compensation for Professional's services and expenses required as a result of such insured loss. At the Owner's option, flood insurance will also be purchased.

(4) The property insurance provided by the Owner requires minimum deductibles and the Contractor shall pay costs not covered by the deductibles. The responsibility of the Contractor for any deductible associated with the all-risk policy described above shall be limited to a maximum of \$1,000 for each occurrence unless higher deductibles are identified in Exhibit C of the Contract Documents. The responsibility of the Contractor for any deductible associated with the flood insurance identified herein, if purchased by the Owner, shall be limited to a maximum of \$1,000 for each occurrence unless higher deductibles are identified in Exhibit C of the Contract Documents.

(5) This property insurance shall cover portions of the Work stored off the site after written approval of the Owner at the value established in the approval, and also portions of the Work in transit.

(6) Boiler and Machinery Insurance. The Owner shall have the option of purchasing and maintaining boiler and machinery insurance required by the Contract Documents or by law, which shall specifically cover such insured objects during installation and until final acceptance by the Owner. If purchased this insurance shall include interests of the Owner, Contractor, Subcontractors and Sub-subcontractors in the Work.

(7) Waivers of Subrogation. The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents and employees, each of the other, and (2) the Professional, Professional's consultants, for damages caused by fire or other perils to the extent covered by property insurance obtained pursuant to this or other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by the Owner as fiduciary. The policies shall provide waivers of subrogation by endorsement or otherwise.

(8) A loss insured under Owner's property insurance shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear.

(9) If Builders Risk coverage is applicable the Contractor shall be responsible for the following maximum deductibles per occurrence per paragraph (3) above. (check one)

All Risk Policy - \$1,000 maximum deductible

All Risk Policy - Maximum deductible of \$\_\_\_\_\_

Flood Policy - \$1,000 maximum deductible

Flood Policy - Maximum deductible of \$\_\_\_\_\_

#### AUTOMOBILE LIABILITY INSURANCE

REVISED 8/7/07

Required by this Agreement? (check one)  Yes  No

(1) Automobile Liability Insurance shall be maintained by the Contractor/Consultant/Professional for the ownership, maintenance or use of any owned, non-owned or hired vehicle with limits of not less than: (check one)

Bodily Injury & Property Damage - \$ 500,000

Bodily Injury & Property Damage - \$1,000,000

(2) The Owner shall be named as an Additional Insured under the policy.

#### UMBRELLA LIABILITY

(1) Umbrella Liability may be maintained as part of the liability insurance of the Contractor/Consultant/Professional and, if so, such policy shall be excess of the Employers' Liability, Commercial General Liability and Automobile Liability coverages required herein and shall include all coverages on a "following form" basis.

(2) The policy shall contain wording to the effect that, in the event of the exhaustion of any underlying limit due to the payment of claims, the Umbrella policy will "drop down" to apply as primary insurance.

(3) The General Aggregate limit, if applicable, shall apply separately to this project and the policy shall be so endorsed.

#### PROFESSIONAL LIABILITY INSURANCE

Required by this Agreement? (check one)  Yes  No

(1) Professional Liability Insurance shall be maintained by the Consultant to insure its legal liability for claims arising out of the performance of professional services under this Agreement. Such insurance shall have limits of not less than: (CHECK ONE)

\$ 500,000 each claim and in the aggregate

\$1,000,000 each claim and in the aggregate

\$2,000,000 each claim and in the aggregate

\$ \_\_\_\_\_ each claim and in the aggregate

(2) Any deductible applicable to any claim shall be the sole responsibility of the Consultant and shall not be greater than \$50,000 each claim.

(3) The Consultant shall continue this coverage for this Project for a period of not less than five (5) years following completion and acceptance of the Project by the Owner.

END OF EXHIBIT D.



EXHIBIT E

TRUTH IN NEGOTIATION CERTIFICATE

In compliance with the Consultants' Competitive Negotiation Act, Section 287.055, Florida Statutes, **Johnson Engineering, Inc., a Florida Corporation**, hereby certifies that wages, rates and other factual unit costs supporting the compensation for the engineering, services of the CONSULTANT to be provided under the Professional Services Agreement, concerning engineering services for the design, permit and provide construction management for a wastewater collection system on 13<sup>th</sup> Avenue North, 14<sup>th</sup> Avenue North and Bembury Lane, are accurate, complete and current as of the time of contracting.

NAME OF CONSULTANT

**Johnson Engineering, Inc.**

By:

Printed Name:

Title:

## **EXHIBIT F**

### **CERTIFICATION OF COMPLIANCE WITH IMMIGRATION LAWS**

The undersigned, is the \_\_\_\_\_ of **Johnson Engineering, Inc.** (“the CONTRACTOR”), and hereby certifies to the following:

1. The CONTRACTOR is in full compliance with all provisions of the Immigration Reform and Control Act of 1986 (“IRCA”), as well as all related immigration laws, rules, regulations pertaining to proper employee work authorization in the United States.

2. The undersigned has verified that the CONTRACTOR has obtained and maintains on file, and will continue to obtain and maintain on file, all documentation required by law, including but not limited to, Form I-9, Employment Eligibility Verification, for all persons employed by or working for the CONTRACTOR in any capacity on any project for the City of Naples (CITY). All such persons have provided evidence of identity and eligibility to work to the CONTRACTOR in accordance with the IRCA and related law. The undersigned hereby affirms that no person has been or will be employed by the CONTRACTOR to work on projects for the CITY who is not authorized to work under law. The undersigned further affirms that the CONTRACTOR’s files will be updated by written notice any time that additional employees work on projects for the CITY.

3. The CONTRACTOR will have its contractors, subcontractors, suppliers and vendors who are involved in projects for the CITY to sign a written acknowledgment that they too are in compliance with immigration law. It is understood that failure to do so could result in the CONTRACTOR being liable for any violation of the law by such third parties.

4. The CONTRACTOR will fully cooperate with and have its contractors, subcontractors, suppliers and vendors to fully cooperate with, all inquiries and investigations conducted by any governmental agency in connection with proper compliance with the laws pertaining to appropriate work authorization in the United States.

5. The undersigned, on behalf of the CONTRACTOR, acknowledges that this Certification may be relied upon by the CITY, its officers, directors, employees, and affiliates or related persons and entities.

6. If it is found that the CONTRACTOR has not complied with the laws pertaining to proper employment authorization, and any legal and administrative action ensues against the CITY, the CONTRACTOR will indemnify, defend and hold the CITY harmless along with their officers, directors, employees, and affiliated or related persons and entities.

7. The CONTRACTOR acknowledges that the CITY by their authorized representatives shall have the right, at any time, upon 24 hours notice, to examine the CONTRACTOR’s books and records to confirm that the CONTRACTOR is in compliance with the terms of this certification.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

By: \_\_\_\_\_

**ACKNOWLEDGMENT**

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

SWORN TO AND SUBSCRIBED before me this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

The Affiant, \_\_\_\_\_, is [ ] personally known to me or [ ] has produced \_\_\_\_\_ as identification, which is current or has been issued within the past five years and bears a serial number of other identifying number.

\_\_\_\_\_  
Print Name:

\_\_\_\_\_  
NOTARY PUBLIC - STATE  
OF \_\_\_\_\_  
Commission Number: \_\_\_\_\_  
My Commission

Expires: \_\_\_\_\_

(Notary Seal)