



## **AGREEMENT**

THIS AGREEMENT, made and entered into this \_\_\_\_ day of June, 2016 ("EFFECTIVE DATE"), by and between:

CITY OF MARGATE, FLORIDA, a municipal corporation organized and existing under the laws of the State of Florida, 5790 Margate Blvd., Margate, Florida, 33063, (hereinafter referred to as "**CITY**"); and CPZ ARCHITECTS, INC., whose address is 4316 West Broward Boulevard, Plantation, Florida 33317 (hereinafter referred to as "**ARCHITECT**").

### **WITNESSETH:**

IN CONSIDERATION of the mutual covenants and conditions as herein expressed and of the faithful performance of all such covenants and conditions, the parties do mutually agree to enter into an agreement for GENERAL ARCHITECTURAL SERVICES as outlined in the REQUEST FOR QUALIFICATIONS ("RFQ") NO. 2016-012 ARCHITECTURAL SERVICES attached hereto as Exhibit "A" and made part of this AGREEMENT.

## **ARTICLE I**

### **THE AGREEMENT DOCUMENTS**

- 1.1 The AGREEMENT Documents consist of all of the following: (i) RFQ No. 2016-012 Architectural Services attached hereto as Exhibit "A"; (ii) ARCHITECT'S Schedule of Fees and Reimbursable Costs attached hereto as Exhibit "B"; (iii) ARCHITECT'S Certificate of Insurance attached hereto as Exhibit "C"; and (iv) ARCHITECT'S Offeror's Certification, Non-Collusive Affidavit, Offeror's Qualifications Statement, Compliance with Occupational and Safety and Act Form, and Drug-Free Workplace Program Form, all of which are made a part of this AGREEMENT.
- 1.2 Any additional documents which are required to be submitted under the AGREEMENT, TASK ORDERS (as hereinafter defined), and all amendments, modifications and supplements issued on or after the effective date of the AGREEMENT, shall also become part of this AGREEMENT.

## **ARTICLE 2**

### **SCOPE OF SERVICES**

- 2.1 ARCHITECT agrees that this is a non-exclusive agreement and the services shall consist of the work set forth in negotiated and authorized description of work and/or task(s) based on the fee and reimbursable cost schedule included as Exhibit "B" attached hereto ("TASK ORDER"). Each proposed TASK ORDER shall be submitted by ARCHITECT as directed by CITY in the form of a proposal which, at minimum shall include: (i) a detailed listing and description of each individual task to be performed under the scope of services, including deliverables as applicable; (ii) a time schedule for each task; (iii) the total cost for each task, inclusive of all fees and costs to be incurred by CITY; and (iv) cost backup per task, reflecting the estimated hours to be spent by each personnel rate category shown in Exhibit "B".
- 2.2 ARCHITECT agrees to meet with the CITY at reasonable times and with reasonable notice.

## **ARTICLE 3**

### **TIME OF PERFORMANCE**

- 3.1 The work to be performed under this AGREEMENT shall be commenced on the date provided in each TASK ORDER. The AGREEMENT term shall be for a period of three years and may be renewed for an additional two one year extensions (maximum of five years total), providing all terms and conditions remain the same except as set forth in Paragraph 4.7 herein, and subject to availability of funding.

- 3.2 The delivery of a fully executed copy of this AGREEMENT shall serve as ARCHITECT'S Notice to Proceed. The ARCHITECT must receive the separate written approval of the CITY'S City Manager or designee ("CONTRACT ADMINISTRATOR") prior to beginning the performance of services under any TASK ORDER(S) or in any subsequent Phase of the AGREEMENT.
- 3.3 TIME IS OF THE ESSENCE OF THIS AGREEMENT. The ARCHITECT shall perform the Services in accordance with the time frames set forth in the TASK ORDER(S) or as otherwise specified by this AGREEMENT.

#### **ARTICLE 4**

#### **COMPENSATION AND METHOD OF PAYMENT**

- 4.1 The ARCHITECT shall submit invoices for payment for work completed on a monthly basis. Payments shall be based on ARCHITECT'S Schedule of Fees and Reimbursable Costs attached hereto as Exhibit "B" and in accordance with the applicable TASK ORDER approved by CITY.
- 4.2 All invoicing of reimbursable expenses shall include a detailed statement of such expenses, documented by paid receipts or other evidence of payment.
- 4.3 No work shall be invoiced at rates above those shown in Exhibit "B" without the prior written approval of the CONTRACT ADMINISTRATOR, which approval may be withheld in CITY's sole discretion, subject to the provisions of paragraph 4.7 hereof.
- 4.4 Payments shall be made upon CITY'S determination that the invoiced portions of the work have been successfully completed and duly authorized. CITY shall not be responsible for payment for any work not authorized in writing by the CONTRACT ADMINISTRATOR.
- 4.5 CITY shall make payment to ARCHITECT within 30 calendar days of invoice approval.
- 4.6 Payment will be made to ARCHITECT at:  
  
4316 W. Broward Boulevard  
Plantation, FL 33317
- 4.7 Rates shall remain fixed for the initial three year term of the AGREEMENT. Rates for any extension term are subject to negotiation between CITY and ARCHITECT and changes may require CITY Commission approval. In the event the ARCHITECT wishes to adjust the rates for the extension term, ARCHITECT shall notify the CITY in writing 90 days prior to the AGREEMENT anniversary date, and

include in the notice the requested adjustments, including full documentation of the requested changes. If no notice is received by that date, it will be deemed by the CITY that no adjustment is requested by the ARCHITECT and that the rates will remain constant during the extension term. If the CITY wishes an adjustment, it will notify the ARCHITECT under the same terms and schedule. Within 30 days of notice, the parties shall meet to resolve any differences and agree on rates for the extension term, which in no event will exceed a maximum 5% increase. In the event that the rates cannot be resolved to the CITY's satisfaction, the CONTRACT ADMINISTRATOR reserves the right to terminate the AGREEMENT at the end of the initial AGREEMENT term.

## **ARTICLE 5**

### **ADDITIONAL SERVICES AND CHANGES IN SCOPE OF WORK**

- 5.1 The CITY, without invalidating this Agreement, may request changes that would increase, decrease, or otherwise modify the Scope of Services to be provided under this Agreement. Such changes must be contained in either a TASK ORDER or written amendment, executed by the parties thereto, with the same formality and of equal dignity prior to any deviation from the terms of this Agreement, including the initiation of any extra work.
- 5.2 Additional services beyond the programmed scope of work is either an hourly additional service at a guaranteed maximum cost or lump sum additional service, all based on the ARCHITECT'S Schedule of Fees and Reimbursable Costs attached hereto as Exhibit "B", as same may be amended pursuant to this AGREEMENT.
- 5.3 The authorization of all work under the Scope of Services, changes in the Scope of Services, and any additional services shall be in accordance with the CITY Procurement and Purchasing Policy.
- 5.4 The compensation and time of performance under this AGREEMENT shall be changed only by TASK ORDER or written amendment executed by CITY and ARCHITECT.

## **ARTICLE 6**

### **CITY'S OBLIGATIONS**

- 6.1 Furnish to ARCHITECT, when available, such data as required for performance of ARCHITECT's Scope of Services, which may include core borings, probing, subsurface explorations, hydraulic surveys, laboratory tests and inspections of samples, materials and equipment, appropriate professional interpretations of all of the foregoing, environmental assessment and impact statements, prior reports and data, property boundary, easement, rights-of-way, topographic and utility surveys; property descriptions; zoning, deed and other land use restriction; and other special data or consultations unless such data is to be furnished by the ARCHITECT.
- 6.2 Arrange for access to and make all provisions for ARCHITECT to enter upon public and private property as required for ARCHITECT to perform its services.
- 6.3 Give notice to ARCHITECT whenever the CITY observes or otherwise becomes aware of any development that affects the scope or timing of ARCHITECT'S services.

## **ARTICLE 7**

### **MISCELLANEOUS PROVISIONS**

- 7.1 This AGREEMENT shall have been deemed to have been executed within the State of Florida. The validity, construction, and effect of this AGREEMENT shall be governed by the laws of the State of Florida. Any claim, objection or dispute arising out of this AGREEMENT shall be litigated only in the courts of the Seventeenth Judicial Circuit in and for Broward County, Florida.
- 7.2. Should any part, term, or provision of this AGREEMENT be determined by the courts to be invalid, illegal or in conflict with any law of the State, the validity of the remaining portion or provision shall not be affected thereby.
- 7.3 ARCHITECT shall not assign or transfer the AGREEMENT or its rights, title or interests therein without CITY 'S prior written approval. The obligations undertaken by ARCHITECT pursuant to the AGREEMENT shall not be delegated or assigned to any other person or firm unless CITY shall first consent in writing to the assignment.
- 7.4 This AGREEMENT, and attachments, represents the entire understanding of the parties as to the matters contained herein. No prior oral or written understanding shall be of any force and effect with respect to those matters covered hereunder. This AGREEMENT may only be modified by amendment in writing signed by each party.

- 7.5 CITY AND ARCHITECT HEREBY KNOWINGLY, IRREVOCABLY, VOLUNTARILY, AND INTENTIONALLY WAIVE ANY RIGHT EITHER MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY ACTION, PROCEEDING, LAWSUIT OR COUNTERCLAIM BASED UPON THE CONTRACT, ARISING OUT OF, UNDER, OR IN CONNECTION WITH THE CONSTRUCTION OF THE WORK, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS (WHETHER VERBAL OR WRITTEN) OR THE ACTIONS OR INACTIONS OF ANY PARTY.**
- 7.6 If the CITY incurs any expense in enforcing the terms of this AGREEMENT, whether suit be brought or not, ARCHITECT agrees to pay all such costs and expenses including but not limited to court costs, interest, and reasonable attorney's fees if such claim is a result of an error or omission within the ARCHITECT'S work.
- 7.7 This AGREEMENT may be terminated by either party for cause, or by the CITY by convenience, upon 30 days' written notice by the terminating party to the other party of such termination, in which event the ARCHITECT shall be paid its compensation for approved services performed to the termination date including all reimbursable expenses then due or incurred to such date of termination. All finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared by ARCHITECT shall become the property of the CITY and shall be delivered by ARCHITECT to the CITY upon payment by the CITY for all services performed by the ARCHITECT.
- 7.8 Drawings, specifications, designs, models, photographs, reports, surveys, and other data provided under this AGREEMENT are and shall remain the property of the CITY whether the Project for which they are made is executed or not. However, this is not an assignment of any copyrights or other ownership rights that the ARCHITECT maintains.
- 7.9 ARCHITECT shall keep such records and accounts and require any and all consultants and subcontractors to keep records and accounts as may be necessary in order to record complete and correct entries as to personnel hours and any expenses charged pursuant to this AGREEMENT. Such books and records will be available at all reasonable times for examination and audit by the CITY and shall be kept for a period of three years after the completion of all work to be performed pursuant to this AGREEMENT. Incomplete or incorrect entries in such books and records will be grounds for disallowance by CITY of any fees or expenses based upon such entries.
- 7.10 **EQUAL OPPORTUNITY EMPLOYMENT:** ARCHITECT agrees that it will not discriminate against any employee or applicant for employment for work under

this AGREEMENT because of race, color, religion, sex, age or national origin and will take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to race, color, religion, sex, age or national origin. This provision shall include but not be limited to employment upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

- 7.11 ARCHITECT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for ARCHITECT, 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 ARCHITECT any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this AGREEMENT. For the breach or violation of this provision, the CITY shall have the right to terminate the AGREEMENT without liability and, at its discretion, to deduct from the contract price or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.
- 7.12 In the event the ARCHITECT, during the course of the work under this AGREEMENT, requires the services of any subcontractors or other professional associates in connection with services covered by this Agreement, ARCHITECT shall secure the prior written approval of the Contract Administrator or designee.
- 7.13 INDEMNIFICATION:
- (a) ARCHITECT agrees to pay on behalf of and defend the CITY from any loss, cost, or expense claimed by third parties for property damage and bodily injury, including death, caused solely by the negligence or willful misconduct of ARCHITECT, its employees, or agents including death in connection with services under this AGREEMENT.
  - (b) To the extent allowable by law, CITY agrees to indemnify and defend ARCHITECT from any loss, cost, or expense claimed by third parties for property damage and bodily injury, including death, caused solely by the negligence or willful misconduct of CITY, its employees, or agents in connection with the services under this AGREEMENT. Nothing contained herein shall be deemed a waiver by the City of any of its immunities provided by law, including those set forth in Section 768.28, Florida Statutes.
  - (c) If the negligence or willful misconduct of both the ARCHITECT and CITY (or a person identified above for whom each is liable) is a cause of such damage or injury, the loss, cost, or expense shall be shared between the

ARCHITECT and CITY as provided by law.

7.14 INSURANCE: ARCHITECT shall provide, pay for, and maintain in force at all times during the services to be performed, such insurance, including Worker's Compensation Insurance, Employer's, and Professional Liability Insurance. The Commercial General Liability policy shall provide contractual liability coverage as provided by the Standard ISO Policy Form CG 00 01. United States Treasury-approved companies authorized to do business in the State of Florida shall issue such policy or policies. ARCHITECT shall specifically name the CITY as additional insured under the Commercial General Liability insurance policy hereinafter described and shall promptly provide City with all required endorsement(s).

(a) Professional Liability Insurance: The limits of liability provided by such policy shall be no less than five hundred thousand dollars (\$500,000) each claim and annual aggregate.

(b) Worker's Compensation Insurance to apply for all employees in compliance with the "Worker's Compensation Law" of the State of Florida and all applicable Federal laws. In addition, the policy must include:

Employers Liability with a limit of \$100,000 each accident

Notice of Cancellation and/or Restriction - The policy must be endorsed to provide the CITY with 30 days' notice of cancellation.

(c) Commercial General Liability with minimum limits of \$1,000,000 per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability and \$1,000,000 general aggregate. Coverage must be afforded on a form no more restrictive than the latest edition of the Commercial General Liability Policy ISO CG 00 01, without restrictive endorsements, as filed by the Insurance Services Office and must include:

Premises and/or Operations

Independent Contractors

Broad Form Property Damage

Contractual Liability Coverage

Personal Injury Coverage with Employee and Contractual Exclusions removed with minimum limits of coverage equal to those required for Bodily Injury Liability and Property Damage Liability.

The CITY is to be included as "Additional Insured" with respect to



liability arising out of operations performed for CITY by or on behalf of ARCHITECT or acts or omissions of ARCHITECT in connection with such operation, and ARCHITECT shall promptly provide all required endorsements.

Notice of Cancellation and/or Restriction - The policy must be endorsed to provide the CITY with 30 days' notice of cancellation.

- (d) Business Automobile Liability with minimum limits of \$1,000,000 per accident combines single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability Policy, without restrictive endorsements, as filed by the Insurance Services Office and must include:

Owned vehicles  
Hired and non-owned vehicles  
Employer's non-ownership

Notice of Cancellation and/or Restriction - The policy must be endorsed to provide the CITY with 30 days' notice of cancellation.

- (e) ARCHITECT shall provide to the CITY a Certificate of Insurance or a copy of all insurance policies required by Article 7.14, including any subsection hereunder. The CITY reserves the right to require a certified copy of such policies upon request. All endorsements and certificates shall state that CITY shall be given 30 days' notice prior to expiration or cancellation of the policy.

7.15 REPRESENTATION: It is recognized that questions in the day-to-day conduct of the work under this AGREEMENT will arise. The CONTRACT ADMINISTRATOR shall act as the CITY'S representative/agent to whom all communication on the day-to-day conduct under this AGREEMENT shall be addressed. ARCHITECT shall inform the CONTRACT ADMINISTRATOR in writing of the representative of ARCHITECT to whom matters involving the conduct of the Project shall be addressed.

7.16 NOTICES: Whenever either party, desires to give notice unto the other, it must be given by written notice, sent by registered United States mail, with return receipt requested, or electronically with receipt acknowledged, and addressed to the party for whom it is intended, at the place last specified, and the place for giving notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving of notice, to-wit:

**FOR CITY:**

Douglas E. Smith, City Manager  
City of Margate  
5790 Margate Boulevard  
Margate, FL 33063

**FOR ARCHITECT:**

Chris P. Zimmerman, AIA, President  
CPZ Architects, Inc.  
4316 W. Broward Boulevard  
Plantation, FL 33317

- 7.17 **TRUTH-IN-NEGOTIATION CERTIFICATE:** Signature of this AGREEMENT by ARCHITECT 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 are accurate, complete, and current at the time of contracting. Any additions to the original contract price changed on an hourly price shall be adjusted to exclude any significant sum by which the CITY determines the additions to the contract price were increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs. All such adjustment shall be made within one year following the end of this AGREEMENT.
- 7.18 **INDIVIDUAL PROTECTION:** It is intended by the parties to this Agreement that the ARCHITECT'S services in connection with the project shall not subject the ARCHITECT'S individual employees, officers or directors to any personal legal exposure for risks associated with this project. CITY agrees that as the CITY'S sole and exclusive remedy, any claim, demand or suit shall be directed and/or asserted only against the ARCHITECT, a Florida corporation, and not against any of the ARCHITECT'S employees, officers or directors. **PURSUANT TO SECTION 558.0035 FLORIDA STATUTES, THE ARCHITECT'S CORPORATION IS THE RESPONSIBLE PARTY FOR THE PROFESSIONAL SERVICES IT AGREES TO PROVIDE UNDER THIS AGREEMENT. NO INDIVIDUAL PROFESSIONAL EMPLOYEE, AGENT, DIRECTOR, OFFICER OR PRINCIPAL MAY BE INDIVIDUALLY LIABLE FOR NEGLIGENCE ARISING OUT OF THIS CONTRACT.**
- 7.19 **PUBLIC RECORDS:** ARCHITECT agrees to keep and maintain public records in CONTRACTOR's possession or control in connection with ARCHITECT'S performance under this Agreement. ARCHITECT additionally agrees to comply specifically with the provisions of Section 119.0701, Florida Statutes. ARCHITECT 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.

(a) Upon request from the CITY custodian of public records, ARCHITECT 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.

(b) 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.

(c) Upon completion of this Agreement or in the event of termination by either party, any and all public records relating to the Agreement in the possession of the ARCHITECT shall be delivered by the ARCHITECT to the CITY MANAGER, at no cost to the CITY, within seven (7) days. All such records stored electronically by ARCHITECT shall be delivered to the CITY in a format that is compatible with the CITY'S information technology systems. Once the public records have been delivered upon completion or termination of this Agreement, the ARCHITECT shall destroy any and all duplicate public records that are exempt or confidential and exempt from public records disclosure requirements.

(d) Any compensation due to ARCHITECT shall be withheld until all records are received as provided herein.

(e) ARCHITECT'S failure or refusal to comply with the provisions of this section shall result in the immediate termination of this Agreement by the CITY.

**Section 119.0701(2)(a), Florida Statutes**

**IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS.**

**Custodian of Records: JOSEPH KAVANAGH, CITY CLERK**

**Mailing address: 5790 Margate Boulevard, Margate, FL 33063**

**Telephone number: 954-935-5325**

**Email: JJKAVANAGH@MARGATEFL.COM**

**IN WITNESSETH WHEREOF**, the CITY and ARCHITECT have signed this AGREEMENT in duplicate. One counterpart each has been delivered to CITY and ARCHITECT. All portions of the AGREEMENT have been signed or identified by CITY and ARCHITECT.

**IN WITNESSETH WHEREOF**, the parties have hereunto set their hands and seals the day and year first above written.

**CITY OF MARGATE**

\_\_\_\_\_  
Tommy Ruzzano, Mayor

\_\_\_\_ day of \_\_\_\_\_, 2016

\_\_\_\_\_  
Douglas E. Smith, City Manager

\_\_\_\_ day of \_\_\_\_\_, 2016

ATTEST:

\_\_\_\_\_  
Joseph J. Kavanagh, City Clerk

\_\_\_\_ day of \_\_\_\_\_, 2016

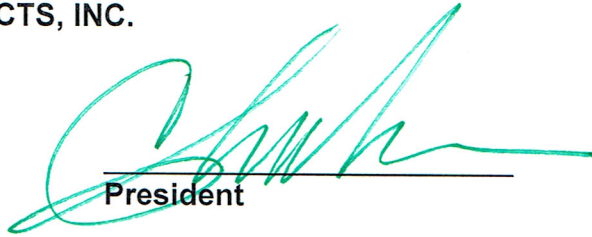
APPROVED AS TO FORM:

\_\_\_\_\_  
Douglas R. Gonzales, City Attorney

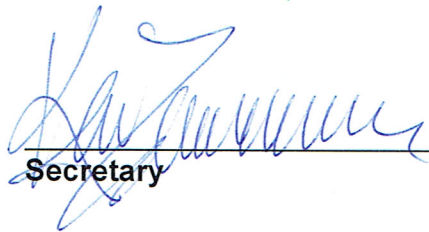
\_\_\_\_ day of \_\_\_\_\_, 2016

FOR ARCHITECT

FOR CORPORATION: CPZ ARCHITECTS, INC.

  
\_\_\_\_\_  
President

26 day of MAY, 2016

  
\_\_\_\_\_  
Secretary

26 day of MAY, 2016



AGREEMENT BETWEEN CITY OF MARGATE (CITY) AND CPZ ARCHITECTS, INC.  
(ARCHITECT)

**EXHIBIT "A"**

**RFQ 2016-012**

**EXHIBIT "B"**

**Schedule of Fees and Reimbursable Costs**

**EXHIBIT "C"**

**Insurance Certificate(s)**