



March 7, 2019

John Sfiropoulos, PE
City Engineer
City of Pompano Beach
1205 NE 5th Ave
Pompano Beach Florida 33060

RE: Work Authorization No.1- Lyons Park Neighborhood Improvement Project – New Outfall

As requested, following is our proposal to provide design services for the of the stormwater sewer re-design due to the new outfall located on SW 5th Avenue. Also, the design of a boat ramp next to the new outfall is included.

This work authorization is pursuant to the Agreement for Professional Services between the City of Pompano Beach (CITY) and R.J Behar & Company, Inc. (CONSULTANT), approved by City Ordinance #2016-17, passed and adopted on November 2, 2015.

All terms and conditions of the Original Contract dated November 2, 2015 and approved via Ordinance No. 2016-17 remain unchanged and in full force and effect.

I. PROJECT DESCRIPTION:

R.J. Behar will produce plans, prepare the hydraulic analysis and obtain permits for the updated storm water system and new boat ramp based on the following scope of work:

II. SCOPE OF WORK:

A. Design Services will include:

1. Field visits
2. Utility coordination
3. Hydraulic analysis
4. Structural Calculations
5. Revised Key sheet
6. Revised General notes sheets
7. Updated Plans and Profile sheets
8. Detail sheets
9. Updated Cost estimate
10. Revised project specifications
11. Public Involvement
12. Permitting

B. Survey

Survey services will be provided by Keith & Associates Inc., it will include the following:



R.J. Behar & Company, Inc.
Engineers • Planners

Topographic Survey of SW 5th Avenue from McNab Road to the canal and McNab Road from SW 5th Avenue to east of SW 18th Street. Survey shall extend from right-of-way to right-of-way and across the canal. Survey shall locate all surface features such as roadway, sidewalks, driveways, traffic striping, surface utilities, etc. Trees will be noted by common name and trunk diameter. Storm and Sanitary structures will be noted with invert elevations, material, diameter and direction. Cross sections of the canal shall be completed from top of bank to top of bank. Surface elevations shall be shown at intervals of approximately 50 feet, including intermediate changes in grade. Soundings will be reported at approximately 10' intervals, including all changes in grade. Survey shall be referenced to the Florida State Plane Coordinate System (NAD83/11) and the North American Vertical Datum of 1988 (NAVD88).

Also, prepare two (2) separate Sketch and Descriptions to obtain easement(s) to build the outfall for the location of the property that will provide the 20' drainage easement 1731 SW 5th Ave.

Utility locates: As needed, the consultant will perform up to (30) test holes at specific sites requested by the design engineer. Attached is Keith & Associates fee proposal.

C. Geotechnical Investigation

Federal engineering will provide a geotechnical report with design parameters and recommendations to design the boat ramp and repair the seawall at the outfall location. Attached is Federal Engineering fee proposal.

D. Deliverables

Three deliverables will be provided to the City, 60%, 90% and Final.

The proposed fee is \$ 155,439.45. A detailed breakdown is attached (Table A) for your review.

We appreciate the opportunity to serve the City of Pompano Beach and pledge our commitment to client satisfaction thru responsive and professional service. If you have any questions, please do not hesitate to contact me at (954) 680-7771.

Sincerely,

R.J. BEHAR & COMPANY, INC.

A handwritten signature in blue ink, appearing to read 'Hans Murzi', is written over a faint blue rectangular stamp.

Hans Murzi, PE, CFM
Project Manager

TABLE A
R J Behar & Company, Inc. New Outfall on SW 5th Avenue.

TASK # / DESCRIPTION	FEE	Comments
TASK 1) Investigation utility coordination draw information in base sheets utility meeting subtotal fees	\$5,880	Obtain and plot utilities along the new outfall route.
2) Water Distribution Design design coordination 60% plans detail sheets 90% Plans 100% Plans project management quality control subtotal fees	\$0	No Changes
3) Sanitary System Update Sanitary project management quality control (5%) subtotal fees	\$0	No Changes
4) Stormwater System Easement Coordination Field Reviews Hydraulic analysis Stormsewer analysis prepare base sheets/revise layout miscellaneous details Seawall / Boat Ramp design Project Management quality control (5%) subtotal fees	\$78,161	Redesign drainage with new outfall route. Structural design of boat ramp and seawall repair
5) Permitting Obtain Broward County permits, USACE, SFWMD, FDEP quality control (5%) subtotal fees	\$19,018	Permit fees not included Includes meetings w/ agencies, addressing comments, obtain permits Obtain permit extension
6) Specifications Update specifications and include boat ramp, seawall restoration, new permits quality control (5%) subtotal fees	\$4,688	Update pay items
7) Cost Estimate Engineer cost estimate (60%, 90%, final) quality control (5%) subtotal fees	\$7,045	Update quantities and unit prices
8) Public Involvement One (1) public involvement meeting subtotal fees	\$6,439	Includes preparation of invites, exhibits, coordination with City and residents, attend meeting, minutes.
9) Construction Phasing and MOT Plans Phasing Plans MOT Design MOT Plans subtotal fees	\$0	By contractor By contractor By contractor
10) Construction Services (24 months) subtotal fees	\$0	Not included
11) Record Drawings subtotal fees	\$0	Not included

TASK FEE SUMMARY

Task 1 Investigation	Lump sum	\$5,880.48
Task 2 Water Distribution Design	Lump sum	\$0.00
Task 3 Sanitary System	Lump sum	\$0.00
Task 4 Stormwater System	Lump sum	\$78,160.61
Task 5 Permitting	Lump sum	\$19,017.90
Task 6 Specification	Lump sum	\$4,688.38
Task 7 Cost Estimate	Lump sum	\$7,044.54
Task 8 Public Involvement	Lump sum	\$6,439.44
Task 9 Const. Phasing and MOT	(By contractor)	\$0.00
Task 10 Const. Eng. and Managem	(Not included)	\$0.00
Task 11 Record Drawings	(Not included)	\$0.00
Sub-Total Labor for Engineering Services (TASK 1 to TASK 9)		\$121,231.35
Expenses (@ 3.5%)		\$4,243.10
Sub-Total Labor for Eng. Services (TASK 1 to TASK 9) plus Expenses		\$125,474.45
Task 12 Sketch and Legal Description for easement (up to two sketches) (K&A)		\$1,500.00
Task 13 Topographic Survey (K&A)		\$9,500.00
Task 14 Subsurface Utility Engineering (K&A) (up to 30 SUEs)		\$17,790.00
Task 15 Geotechnical Investigation		\$1,175.00 (\$950 +Reim)
Sub-Total for Additional Engineering Services (TASK 13 to TASK 15)		\$29,965.00
Total (TASK 1 to TASK 15)		\$155,439.45

CONTRACT ADDENDUM NO. 005

PROJECT NAME:	Lyons Park	PROJECT NO:07020.97	DATE : 12/07/18
CLIENT: R J Behar & Company, Inc. 6861 SW 196th Avenue, Suite 302 Pembroke Pines, FL 33332		CONSULTANT: Keith and Associates, Inc 301 East Atlantic Boulevard Pompano Beach, Florida 33060 Phone: (954) 788-3400	
CLIENT REPRESENTATIVE: Hans Murzi		PROJECT MANAGER: Lee Powers	
PHONE: 954.650.7771	FAX : N/A	START DATE: TBD	
EMAIL: hmurzi@rjbehar.com		END DATE: TBD	

The CLIENT is required to execute this Addendum and return it to the CONSULTANT prior to commencement of the additional services described herein. All items, terms and conditions of the original Agreement (as amended to include the scope defined herein) remain unchanged and in full force and effect.

DESCRIPTION OF ADDITIONAL SERVICES**TASK 011 – Topographic Survey**

CONSULTANT shall prepare a Topographic Survey of SW 5th Avenue from McNab Road to the canal and McNab Road from SW 5th Avenue to east of SW 18th Street. Survey shall extend from right-of-way to right-of-way and across the canal. Survey shall locate all surface features such as roadway, sidewalks, driveways, traffic striping, surface utilities, etc. Trees will be noted by common name and trunk diameter. Storm and Sanitary structures will be noted with invert elevations, material, diameter and direction. Cross sections of the canal shall be completed from top of bank to top of bank. Surface elevations shall be shown at intervals of approximately 50 feet, including intermediate changes in grade. Soundings will be reported at approximately 10' intervals, including all changes in grade. Survey shall be referenced to the Florida State Plane Coordinate System (NAD83/11) and the North American Vertical Datum of 1988 (NAVD88).

Lump Sum Fee..... \$9,500.00

TASK 012 – Sketch and Descriptions

The CONSULTANT will prepare two (2) separate Sketch and Descriptions to obtain easement(s) to build the outfall for the location of the property that will provide the 20' drainage easement 1731 SW 5th Ave
\$750 per sketch and description

Lump Sum Fee..... \$1,500.00

TASK 013 – Utility Locates

CONSULTANT will perform up to (30) test holes at specific sites requested by the design engineer. Test holes will be utilized to expose utilities to minimize any potential for damage. Test holes performed will be of minimum size (usually 1' by 1'). Backfill of test holes will be performed utilizing the removed material, if suitable. Areas will be restored back as close as possible to their original condition. Installation of an identifiable above ground marker will be performed at each test hole location. Field markers will consist of a nail and disk in asphalt, or an iron rod and cap with survey stake in grassed areas. Test holes performed in the street will be patched using cold patch. The test hole number and utility will be identified on the ground or on the stake, as appropriate. A test hole summary report will be created providing

coordinates, depth of cover, type, size and material if applicable.

Locates (test holes) \$370.00 each (includes site designation and office support)

Not to Exceed Fee..... \$11,100.00

TASK 014 – Mapping Locates

CONSULTANT shall survey the test holes performed in Task 013. Elevations shall be referenced to the North American Vertical Datum of 1988 (NAVD88). Coordinates will be referenced to the Florida State Plane Coordinate System (NAD83/11). Deliverable shall include coordinates and elevations to be included in the test hole reports.

Mapping \$223.00 per locate, mobilization is separate from task 011

Not to Exceed Fee \$6,690.00

Total Not to Exceed Fee.....\$28,790.00

KEITH and ASSOCIATES, INC

ADDENDUM APPROVED BY CLIENT AUTHORITY:

SIGNATURE: _____

SIGNATURE: _____

PRINT

NAME: Alex Lazowick

PRINT NAME: _____

TITLE: Vice-President

TITLE: _____

DATE: _____

DATE: _____

PROPOSAL

Dated: Tuesday, December 4, 2018

R.J. Behar & Company, Inc.

6861 SW 196th Avenue, Suite 302

Pembroke Pines, FL 33332

Attn.: Hans Murzi

RE: Proposed Geotechnical Services

Proposed Boat Ramp & 66" Outfall

By 1731 SW 5th Avenue

Pompano Beach, FL 33060

Thank you for contacting Federal Engineering & Testing, Inc. ("F.E.T.") Please find below our Proposal for the services you have requested, as well as the accompanying Agreement for said services. If the Proposal and Agreement meet with your approval, please execute both where indicated and return to us via fax at (954) 784-7875 or email to sven@fed-eng.com. Upon receipt of the signed documents, F.E.T. will commence the services agreed to therein.

Proposed Geotechnical Services				
Type of Test	Description	Quantity	Each	Cost
Soil Boring	30' Soil Boring with Truck Rig	2	\$ 500.00	\$ 1,000.00
Mobilization	Mobilizing Drill Equipment	1	\$ 100.00	\$ 100.00
Engineering Report	Report with Recommendations	1	Included	Included
Discount	Multiple Borings Discount	2	\$ (75.00)	\$ (150.00)
Total				\$ 950.00

Possible Additional Services	Cost Per Unit
Organic Content Test (each)	\$ 50.00
No. 200 Wash Test (each)	\$ 75.00
Moisture Content Test (each)	\$ 25.00
Grain Size Analysis Test (each)	\$ 75.00

**Price is contingent upon F.E.T. having sufficient access for truck mounted drill equipment to the location of the proposed structures. The client is responsible for providing access on site.*

***Price includes 2 sealed reports.*

TERMS & CONDITIONS

THIS PROPOSAL AND THE ACCOMPANYING AGREEMENT FOR ENGINEERING SERVICES IS SUBJECT TO THE TERMS AND CONDITIONS ATTACHED HERETO, WHICH ARE HEREBY EXPRESSLY INCORPORATED INTO THIS DOCUMENT BY REFERENCE AS IF FULLY SET FORTH HEREIN. BY SIGNING BELOW YOU ACKNOWLEDGE THAT YOU HAVE READ THE TERMS AND CONDITIONS, OR HAVE BEEN GIVEN THE OPPORTUNITY TO VIEW SAME, AND INTEND TO BE BOUND THEREBY. CLIENT'S SIGNATURE BELOW FURTHER AUTHORIZES PERFORMANCE OF THE WORK SPECIFIED HEREIN.

Client Initials: _____

Please continue--sign/initial each page where indicated and return to our office via fax to (954) 784-7875 or email to sven@fed-eng.com.

Agreement for Engineering Services

THIS AGREEMENT FOR ENGINEERING SERVICES ("Agreement") is entered into by and between Federal Engineering & Testing, Inc., a Florida corporation, located at 3370 NE 5th Avenue, Oakland Park, Florida 33334 ("F.E.T."), and R.J. Behar & Company, Inc. ("Client"), with business offices located at 6861 SW 196th Avenue, Suite 302, Pembroke Pines, FL 33332. Dated: Tuesday, December 4, 2018

Recitals

IN CONSIDERATION of the mutual promises and covenants set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereby agree as follows:

Proposal: Client accepts F.E.T.'s Proposal for Geotechnical Engineering and Construction Materials Testing Services, Dated: Tuesday, December 4, 2018 ("Proposal");

Fee Arrangement: 1) Prepay with check, money order or credit card (Visa or Master Card)
2) 50% down with check, money order or credit card, balance upon completion

Scope of Services: F.E.T. agrees to perform the proposed Geotechnical Engineering and Construction Materials Testing services described in the Proposal ("Services"), as set forth below, to the following property:
Proposed Boat Ramp & 66" Outfall ("Project");
By 1731 SW 5th Avenue, Pompano Beach, FL 33060

Services:

Type of Test	Description	Quantity
Soil Boring	30' Soil Boring with Truck Rig	2
Mobilization	Mobilizing Drill Equipment	1
Engineering Report	Report with Recommendations	1

Contact Information
Name: Hans Murzi
Phone: (954) 680-7771
Email: hmurzi@rjbehar.com

Special Conditions: Client acknowledges and accepts the disclaimers set forth below;

Client acknowledges and agrees that this Agreement for Engineering Services is subject to the Terms and Conditions attached hereto, which are hereby expressly incorporated by reference into this Agreement as if fully set forth herein. Client further agrees that Client has read the Terms and Conditions, or has been given the opportunity to view same, and intends to be bound thereby.

DISCLAIMERS

****If Soil Borings are to be performed, areas to be tested must be clearly marked. If building is not staked out or if an existing structure is in its place, the report will be preliminary. Additional borings must be done once the footprint of the structure is cleared and staked out in order to receive complete foundation recommendations.**

In Order to schedule testing in a timely manner, how have you marked out the area to be tested (for soil borings only)?

F.E.T. shall not be responsible for the acts or omissions of the contractor, any subcontractor, or any of the contractor's or subcontractor's agents or employees or any other person performing any of the work under a construction contract, including failure to complete work according to a construction contract, engineering plans and/or architectural drawings.

F.E.T. does not claim responsibility for any existing damage and/or any damage caused to the above-referenced site and/or its underground utilities during time of service by F.E.T. Prior to commencement of Services, Owner shall provide to F.E.T. the location of electric, gas, and any other underground utilities.

Client Initials: _____

Terms & Conditions

1. General. This Agreement (consisting of the Agreement for Engineering Services, any Addendum(s) thereof, these terms and conditions and any Proposal which these conditions accompany and of which they are part, collectively referred to herein as the "Agreement") shall be deemed cancelled/withdrawn within sixty (60) days of issuance if same are not fully executed by an authorized agent of Client and returned to Federal Engineering & Testing, Inc. ("F.E.T.") via fax/email to 954-784-7875 or sven@fed-eng.com. As used in this Agreement, the word "or" is not exclusive; "including" is always without limitation; "days" means calendar days; "Client" identifies that person/entity that signed this Agreement as the authorized agent thereof; and "Project" means the project/property to receive services by F.E.T.

2. Fees. In consideration of the services to be furnished by F.E.T. as described in this Agreement ("Services"), Client agrees to pay the fee described herein. If said fee does not include sales tax, Client shall pay applicable sales tax required by law. Payment is due upon receipt of any invoice. Client shall notify F.E.T. in writing within ten (10) days of the date of the invoice if Client objects to any portion of the invoice and shall promptly pay the undisputed portion. Failure to timely provide written notice shall constitute acceptance of the invoice in full. Client shall pay a finance fee of 1.5% per month or the maximum allowed by law for all unpaid balances thirty (30) days or older. Client agrees to pay all collection-related costs, including reasonable attorneys' fees, which F.E.T. may incur to obtain past-due payments from Client. F.E.T. may suspend Services for lack of timely payment. Payment of any invoice submitted to Client shall not be subject to, or contingent upon, F.E.T.'s completion of Services or upon Client's receipt of any other relating project, company and/or payment. A travel fee of \$85.00 shall be incurred if the Project is located more than thirty (30) miles from F.E.T.'s office unless otherwise noted above. An \$85.00 mobilization fee, equal to one (1) hour tech. time, shall be incurred if Services are cancelled while F.E.T. is in route to the Project. It is Client's responsibility to determine whether federal, state, or local prevailing wage requirements apply and to notify F.E.T. if same do apply. If it is later determined that prevailing wages apply, and F.E.T. was not previously notified by Client, Client agrees to pay the prevailing wage from that point forward, as well as a retroactive payment adjustment to bring previously paid amounts in line with prevailing wages. Client also agrees to indemnify and hold harmless F.E.T. from any alleged violations made by any governmental agency regulating prevailing wage activity for failing to pay prevailing wages, including the payment of any fines or penalties.

3. Acceptance/Termination. Client agrees that the execution of F.E.T.'s Agreement is a material element of the consideration F.E.T. requires to provide Services. If Services are initiated by F.E.T. prior to the execution of the Agreement as an accommodation for Client at Client's request, both parties agree that commencement of Services constitutes formal acceptance of all terms and conditions of this Agreement, including those herein. In the event Client uses its own purchase order or other form to administer an agreement for Services, the use of such form shall be for convenience purposes only and any additional or conflicting terms contained therein shall be stricken. Either party may terminate this Agreement upon written notice to the other. In such case, F.E.T. shall be paid for costs incurred and fees earned up to the date of termination plus the reasonable costs of terminating the Services.

4. Scope of Services. The scope of F.E.T.'s Services is solely as described in this Agreement. F.E.T.'s Services do not include the investigation or detection of, nor do recommendations in F.E.T.'s reports address the presence or prevention of, biological pollutants (e.g. mold, fungi, bacteria, viruses, or their byproducts) unless specifically called for by this Agreement, nor other occupant safety issues, such as vulnerability to natural disasters, terrorism, or volcano. F.E.T.'s findings, opinions, and recommendations are based solely upon data and information obtained by or furnished to F.E.T. at the time of the Services. If, within the scope of this Agreement, F.E.T. is to rely upon information provided by Client, F.E.T. shall not be liable for any and all consequences resulting from the inaccuracy of the information provided.

5. Access. Client is responsible for ensuring suitable access for F.E.T. equipment and personnel to the Project. An \$85.00 mobilization fee shall be incurred for locked/closed gates, poor access, no access, or any like impediment, including excessive construction debris. Client shall designate a specific time for F.E.T. to be at the Project. If, upon F.E.T.'s arrival, Client or Client's sub/contractor is not ready or if there is a delay whereby F.E.T. must be on site for more than thirty (30) consecutive minutes without being able to perform Services, Client shall be billed the standard stand-by hourly rate of \$85.00 per hour. If same occurs on a weekend/legal holiday, Client shall be billed at a rate of time and one half the standard hourly stand-by rates. F.E.T.'s normal operating hours are from 8:00am to 5:00pm, Monday through Friday. Work to be performed outside of these hours or on weekends/holidays will be charged at time and one half F.E.T.'s normal rates plus technician time.

6. Utilities. Client shall provide the location of or arrange for the marking of private utilities and subterranean structures. While F.E.T. shall take reasonable precautions to avoid damage to subterranean structures or utilities, F.E.T. shall not be responsible for damage to same which are not called to F.E.T.'s attention, are incorrectly marked, or are incorrectly shown on the plans furnished to F.E.T.

7. Testing and Observations. Client understands that testing and observations are discrete sampling procedures, and that such procedures indicate conditions only of the depths, locations, and times the procedures were performed. F.E.T. will provide test results and opinions based on tests and field observations only for the work tested. Client understands that testing and observation are not continuous or exhaustive, and are conducted to reduce—not eliminate—project risk. Client agrees to the level or amount of testing performed and the associated risk. F.E.T. will take reasonable precautions to reduce damage to the Project when performing Services; however Client accepts that invasive services such as drilling or sampling may damage or alter the site. Site restoration is not provided unless specifically included in the Services.

8. Existing Conditions. Client recognizes that actual conditions may vary from those encountered at the locations where borings, observations or explorations are made by F.E.T. and that the data, interpretation, and recommendations of F.E.T. are based solely on the information available to it. F.E.T. shall have the right to rely on the accuracy and completeness of all information furnished to it by the Client.

9. Sample Disposition, Affected Materials, and Indemnity. Samples are consumed in testing or disposed of upon completion of tests (unless stated otherwise in the Services). Client shall furnish or cause to be furnished to F.E.T. all documents and information known or available to Client that relate to the identity, location, quantity, nature, or characteristic of any hazardous waste, toxic, radioactive, or contaminated materials ("Affected Materials") at or near the site, and shall immediately transmit now, updated, or revised information as it becomes available. Client agrees that F.E.T. is not responsible for the disposition of Affected Material unless specifically provided in the Services, and that Client is responsible for directing such disposition. In the event that test samples obtained during the performance of Services (i) contain substances hazardous to health, safety, or the environment; or (ii) equipment used during the Services cannot reasonably be decontaminated, Client shall sign documentation (if necessary) required to ensure the equipment and/or samples are transported and disposed of properly, and agrees to pay F.E.T. the fair market value of this equipment and reasonable disposal costs. In no event shall F.E.T. be required to sign a hazardous waste manifest or take title to any Affected Materials. Client shall have the obligation to make all spill or release notifications to appropriate governmental agencies. Client agrees that F.E.T. neither created nor contributed to the creation or existence of any Affected Materials conditions at the site. Accordingly, Client waives any claim against F.E.T. and agrees to defend, indemnify and save F.E.T., its agents, employees, and related companies harmless from any claim, liability or defense costs, including attorney and expert fees, for injury or loss sustained by any party from such exposures allegedly arising out of F.E.T.'s non-negligent performance of Services, or for any claims against F.E.T. as a generator, disposer, or arranger of Affected Materials under federal, state, or local law or ordinance.

10. Additional Services Requested by Client. In the event Client desires F.E.T. to provide additional services not set forth in the Agreement, Client shall execute a written Addendum for the payment of additional services prior to F.E.T.'s commencement of same. Upon execution, the Addendum Change Order shall be incorporated into the original Agreement, become a part thereof and subject to the Agreement's terms and conditions, including those herein. F.E.T. reserves the right to request that payment be made in full prior to the commencement of work under the Agreement or any Addendum thereto.

11. Ownership of Tests/Reports. All test results/reports prepared by F.E.T. pursuant to the Agreement shall remain in F.E.T.'s possession until all monies due and owing by Client to F.E.T. are paid in full. Proprietary concepts, systems, and ideas developed during performance of Services are the sole property of F.E.T. Files shall be maintained pursuant to F.E.T.'s document retention policies and practices. All reports, notes, drawings, specifications, data, calculations, and other documents prepared by F.E.T. ("Documents") are instruments of F.E.T.'s Services that shall remain F.E.T.'s property. Client agrees not to use the Documents for future additions or alternations to this Project or for other projects without F.E.T.'s express written consent. Any unauthorized use of the documents will be at Client's sole risk and without liability to F.E.T. Accordingly, Client shall defend, indemnify, and hold harmless F.E.T. from and against any and all losses, claims, demands, liabilities, suits, actions, and damages whatsoever arising out of or resulting from such unauthorized use.

12. Third Party Reliance. This Agreement and the Services provided thereby are for F.E.T. and Client's sole benefit and exclusive use, with no third party beneficiaries intended. To the extent that any other person or entity, including but not limited to a contractor/subcontractor/other design professional, is benefited by the Services performed by F.E.T. pursuant to this Agreement, such benefit is purely incidental. F.E.T. shall have no liability to Client or any other party arising out of or related to the use of the information, data, or reports generated by F.E.T. during the performance of the Services by a third party for any reason whatsoever.

13. Performance of Services by Third Parties. Client acknowledges and understands that some Services offered by F.E.T. are performed by third parties. Client agrees that F.E.T. shall not be liable for the actions of, work performed by, or reports/information generated by said third parties.

14. Warranties. F.E.T. will perform the Services in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions in the same locale. EXCEPT FOR THE STANDARD OF CARE PREVIOUSLY STATED, F.E.T. MAKES NO WARRANTIES OR GUARANTEES, EXPRESS OR IMPLIED, RELATING TO F.E.T.'S SERVICES AND F.E.T. DISCLAIMS ANY IMPLIED WARRANTIES OR WARRANTIES IMPOSED BY LAW, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

15. WAIVER OF CONSEQUENTIAL DAMAGES. Client hereby waives any and all claims against F.E.T. for consequential damages, special damages, and/or delay damages arising out of or related to this Agreement and/or the Services provided thereby. This waiver includes, but is not limited to, damages incurred by Client for the cost of substitute facilities, goods, or services; cost of capital; loss of use, opportunity, income, profit, revenue, financing, business, or reputation; loss of management or Client's extended general conditions; loss of good will; or for any special, consequential, indirect, punitive, or exemplary damages arising out of or relating to the Services provided by F.E.T. regardless of whether such claim or dispute is based upon an alleged breach of contract, willful misconduct or negligent act or omission of F.E.T. or its employees and/or agents, or other legal theory.

Client Initials: _____

Terms & Conditions

16. Dispute Resolution/ Client Required to Serve a Notice of Claim. Client shall make no claim (directly or in the form of a third-party claim) against F.E.T., unless Client has first provided F.E.T. with a written certificate, executed by an independent engineer, surveyor or geologist, as the case may be, or appropriate design professional in the state in which the Project is located, specifying and certifying each and every act or omission that Client contends constitutes a violation of the standard of care governing a geotechnical, civil or environmental engineer, surveyor or geologist, as the case may be, performing professional services under similar circumstances. Client shall provide this opinion to F.E.T. and the parties shall endeavor to resolve the dispute within thirty (30) days, after which Client may pursue its remedies at law. However, the parties agree that any and all disputes arising under this Agreement and/or the Services provided herein shall be subject to non-binding mediation as a prerequisite to further legal proceedings. In the event of a dispute, whether or not a lawsuit or other proceeding is filed, F.E.T. shall be entitled to recover its reasonable attorneys' fees and costs, including legal fees and costs incurred in any trial or appeal.

17. Representation Fees. In the event of future conflict between the owners of the Project and a third party, F.E.T.'s legal and/or company representation and preparation for representation fees shall be billed at an hourly rate.

18. SITE ACCESS AND SAFETY. Client shall obtain all site related approvals, permits, licenses, and consents necessary to commence and complete Services and shall execute any necessary site access agreement. F.E.T. shall be responsible for the supervision and site safety measures of its own employees, but shall not be responsible for same for any other person or entity, including but not limited to Client, Client's contractors, subcontractors, or any third party.

19. FORCE MAJUERE. F.E.T. shall not be held responsible for any damages caused by Acts of God, including, strikes, riots, hurricanes, inclement weather, shortages of labor or materials, war, riot, inability to obtain materials or services, delays caused by Client, Client's agents, or any governmental regulation or agency, or for any other causes that are beyond the reasonable control of F.E.T.

20. LIMITATION OF LIABILITY. TO THE FULLEST EXTENT PERMITTED BY LAW, CLIENT AGREES TO LIMIT F.E.T.'S LIABILITY TO THE CLIENT AND TO ANY AND ALL OF THE CLIENT'S PARENTS, SUBSIDIARIES, AFFILIATES, PARTNERS, OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES, AGENTS, CONSTRUCTION MANAGERS, CONTRACTORS, SUBCONTRACTORS, CONSULTANTS, SUBCONSULTANTS AND INSURERS FOR ANY AND ALL DAMAGES ARISING OUT OF OR RELATING TO THE PERFORMANCE OF F.E.T.'S SERVICES UNDER THIS AGREEMENT, SUCH THAT F.E.T.'S AGGREGATE LIABILITY TO SAME WILL NOT EXCEED THE LESSOR OF (I) F.E.T.'S FEE FOR ITS SERVICES ON THE PROJECT OR (II) F.E.T.'S AVAILABLE PROFESSIONAL LIABILITY INSURANCE COVERAGE AT THE TIME OF ANY SETTLEMENT OR JUDGMENT. IN THE EVENT THAT THIS LIMITATION OF LIABILITY PROVISION IS DEEMED VOID AS A MATTER OF LAW, THEN F.E.T.'S LIABILITY PURSUANT TO THIS PARAGRAPH SHALL BE LIMITED TO THE LOWEST AMOUNT ALLOWABLE AS A MATTER OF LAW. To the fullest extent permitted by law, Client further agrees that no shareholder, officer, director, partner, principal or employee of F.E.T. shall have personal liability for any act, omission, breach, tort, fault or wrong arising from or relating to F.E.T.'s Services on the Project.

21. Indemnity. To the fullest extent permitted by law, Client agrees to defend, indemnify, and hold harmless F.E.T. and F.E.T.'s parents, subsidiaries, affiliates, partners, officers, directors, shareholders, employees and agents harmless for any and all claims, damage obligations, liabilities, suits, demands and loss, including reasonable attorneys' fees and all other costs, expenses and disbursements, arising out of and/or resulting from the performance of the Services, provided that any such claim, damage, loss, or expense is caused in whole or in part by the negligent act or omission and/or strict liability of Client, anyone directly or indirectly employed by Client, including but not limited to a contractor, or anyone for whose acts any of them may be liable, with the exception of F.E.T. Client shall further indemnify and hold harmless F.E.T. and F.E.T.'s parents, subsidiaries, affiliates, partners, officers, directors, shareholders, employees and agents from and against any and all claims, damages, losses and expenses, including reasonable attorneys' fees, arising from the presence, discharge, release or escape of asbestos, hazardous waste, or other contaminants during performance of the Services.

22. To the fullest extent permitted by law, Client further agrees to defend, indemnify, and hold harmless F.E.T. and F.E.T.'s parents, subsidiaries, affiliates, partners, officers, directors, shareholders, employees and agents harmless for any and all claims, damage obligations, liabilities, suits, demands and loss, including reasonable attorneys' fees and all other costs, expenses and disbursements, to which F.E.T. may be subject, actually or allegedly arising from or relating to: (i) any unknown site condition or subterranean structures of which F.E.T. does not have actual knowledge; (ii) any errors, omissions or inconsistencies in any data, documents, records or information provided to F.E.T. by Client or third parties; (iii) any breach, tort, error, omission, wrong or fault of the Client or third party over whom F.E.T. has no control; (iv) any Act of God (such as but not limited to an earthquake, cyclone, flood, hurricane, tornado, windstorm and high winds), fire, explosion, civil disturbance, terrorist attack, embargoes, hazardous materials, or enjoining of F.E.T.'s services by a governmental body; (v) the transport, treatment, removal or disposal of all samples; and (vi) Client's unauthorized use of plans, reports, documents and related materials prepared by F.E.T. In the event any part of this indemnification is void as a matter of law, then only that portion that is deemed void as a matter of law shall be stricken and the balance of this indemnification shall remain in full force and effect.

23. F.E.T. shall not be responsible for the acts or omissions of the contractor, any subcontractor, or any of the contractor's or subcontractor's agents or employees or any other person performing any of the work under a construction contract, including failure to complete work according to a construction contract, engineering plans and/or architectural drawings.

24. F.E.T. shall not be responsible for the quality and completeness of Client's contractor's work or their adherence to the project documents, and F.E.T.'s performance of testing and observation services shall not relieve Client's contractor in any way from its responsibility for defects discovered in its work, or create a warranty or guarantee. F.E.T. will not supervise or direct the work performed by Client's sub/contractor and is not responsible for their means and methods unless said service is included in the Scope of Services.

25. Insurance. F.E.T. maintains workers' compensation, general liability, property, automobile and professional liability insurance. Certificates of insurance will be issued to Client upon written request. Client agrees that it will require the construction manager, general contractor or, if Client has not retained a construction manager or general contractor, the contractor(s) responsible for performing the work reflected by or relating to F.E.T.'s services on the Project, to name F.E.T. as an additional insured on its insurance coverage applicable to the Project.

26. Successors and Assigns. This Agreement shall be assigned without prior written consent of all parties. This Agreement shall be binding upon the parties hereto and their respective legal representative successors and assigns.

27. Notice. Any notice required by this Agreement shall be delivered to F.E.T. at 250 SW 13th Ave, Pompano Beach, Florida 33069, via Certified U.S. Mail.

28. Governing Law and Venue. This Agreement shall be construed by, and governed in accordance with, the laws of the State of Florida without regard to its conflicts of law rules. In any action between and among the parties hereto arising out of or relating to this Agreement, the parties agree to the exclusive jurisdiction and venue in the Federal and state courts located in Broward County, Florida.

29. Section Headings. Section headings are for convenience only and shall not affect the meaning or have any bearing on the interpretation of any provision of this Agreement.

30. Entire Agreement. Each party hereto agrees and represents that this Agreement constitutes the entire agreement and understandings between the parties affecting the Services, and no other agreement or understanding of any nature concerning the Services will be recognized, and that all negotiations made prior to the execution of the Agreement shall be deemed superseded by the Agreement.

31. Amendments. This Agreement may be amended, modified or supplemented only by a written instrument executed by the parties thereof. The conduct of the parties without such a written amendment shall in no event constitute a modification of the terms hereof. The failure of F.E.T. to enforce any terms and/or conditions of this Agreement, including those herein, at any time shall not constitute a waiver of that term/condition or of any other term/condition of this Agreement nor shall such action be deemed to be an act of ratification, amendment or consent.

32. Severability. If any term of this Agreement is to any extent illegal, invalid, or incapable of being enforced, such term shall be excluded to the extent of such invalidity or unenforceability; all other terms hereof shall remain in full force and effect; and, to the extent permitted and possible, the invalid or unenforceable term shall be deemed replaced by a term that is valid and enforceable and that comes closest to expressing the intention of such invalid or unenforceable term.

PURSUANT TO FLORIDA STATUTES, CHAPTER 558.0035, AN INDIVIDUAL EMPLOYEE OR AGENT OF THE CORPORATION MAY NOT BE HELD INDIVIDUALLY LIABLE FOR NEGLIGENCE

This Agreement for Engineering Services is void if not signed and returned within 30 days of: 12/04/2018

IN WITNESS WHEREOF, the parties hereto have caused this Agreement for Engineering Services to be executed by their duly authorized representatives as of the day and year first written above.

Sven Jetzkewitz
Federal Engineering & Testing

Authorized Client's Signature
R.J. Behar & Company, Inc.

Date of Acceptance