

**CITY OF WESTON, FLORIDA
RESOLUTION NO. 2024-163**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WESTON, FLORIDA, ACCEPTING AND RATIFYING THE RANKINGS OF THE SELECTION COMMITTEE, PURSUANT TO RFQ NO. 2024-09, A REQUEST FOR QUALIFICATIONS FOR PROFESSIONAL ARCHITECTURAL SERVICES: VISTA PARK PHASE II – RECREATION CENTER, AND AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE AN AGREEMENT WITH THE NUMBER ONE RANKED FIRM, WJ ARCHITECTS, INC. OF ST. PETERSBURG, FLORIDA; AND IF UNABLE TO NEGOTIATE AND EXECUTE AN AGREEMENT WITH THE NUMBER ONE RANKED FIRM, AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE AN AGREEMENT WITH THE NUMBER TWO RANKED FIRM, BERMELLO AJAMIL & PARTNERS, LLC OF FT. LAUDERDALE, FLORIDA.

WHEREAS, First, the City of Weston (the “City”) owns and operates Vista Park, located at 18800 Vista Park Blvd., Weston, FL 33327; and

WHEREAS, Second, the City requires professional architectural services to produce all design and construction documents necessary to bid, permit and construct a new City recreation and gymnasium complex; and

WHEREAS, Third, the funding is appropriated within the Fiscal Year 2025 Capital Projects Fund – Vista Park Indoor Recreation Complex - Design; and

WHEREAS, Fourth, Chapter 32 of the City Code governs the acquisition of goods and services and disposal of City property, including the Request for Qualifications for Professional Architectural Services: Vista Park Phase II – Recreation Center, RFQ No. 2024-09 (the “RFQ”); and

WHEREAS, Fifth, in compliance with Chapter 32 of the City Code, on July 19, 2024, the RFQ was issued and advertised in the Sun-Sentinel, on the City’s website, and posted on the Public Notices board in the City Hall lobby, and proposal documents made available for electronic download from the City’s website and Onvia DemandStar; and

WHEREAS, Sixth, on August 6, 2024, a total of thirty-three firms participated at the mandatory Pre-Proposal Conference held virtually through Cisco Webex; and

WHEREAS, Seventh, on August 12, 2024, the City issued Addendum No. 1, on August 15, 2024 Addendum No. 2 was issued, on August 19, 2024 Addendum No. 3 was issued, and on August 23, 2024 Addendum No. 4 was issued; and

WHEREAS, Eighth, the proposals were due and opened on September 3, 2024, and yielded proposals from the following nine firms: Justin Architects, P.A. of Ft. Lauderdale, FL; BEA Architects, Inc. from Miami, Florida; Walter Zackria Associates, PLLC of Ft. Lauderdale, Florida; WJ Architects, Inc. of St. Petersburg, Florida; R.E. Chisholm Architects, Inc. of Miami, Florida; Harvard Jolly, Inc. d/b/a PBK Architects, Inc. of West Palm Beach, Florida; Saltz Michelson Architects, Inc. of Ft. Lauderdale, Florida; Synalovski, Romanik Saye, LCC of Ft. Lauderdale, Florida; and Bermello, Ajamil & Partners, LLC of Ft. Lauderdale, Florida; and

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WHEREAS, Ninth, the first phase of the RFQ provided that the proposals would be ranked on the following criteria: 1) Location of Proposer's firm; 2) Qualification of Proposer's Project Team, Proposer approach and methodology to the scope of services; 3) Past Performance; 4) Workload; 5) The volume of work previously awarded to Proposer; 6) Proposer's financial ability to perform the services described in this RFQ; 7) Whether Proposer is a certified minority business enterprise; and

WHEREAS, Tenth, on September 19, 2024, the Selection Committee, consisting of Kara Petty, Director of Parks and Recreation; Ryan Fernandes, Director of Technology Services; and Peter Johnson, Assistant Director of Public Works, met at a publicly noticed virtual meeting held using Cisco Webex to evaluate the proposals and deemed all nine proposers as responsive and responsible and ranked Bermello, Ajamil & Partners, LLC of Ft. Lauderdale, Florida as number one; Walter Zackria Associates, PLLC of Ft. Lauderdale, Florida as number two; WJ Architects, Inc. of St. Petersburg, Florida as number three; R.E. Chisholm Architects, Inc. of Miami, Florida as number four; BEA Architects, Inc. from Miami, Florida as number five; Harvard Jolly, Inc. d/b/a PBK Architects, Inc. of West Palm Beach, Florida as number six; Justin Architects, P.A. of Ft. Lauderdale, FL as number seven; Synalovski, Romanik Saye, LCC of Ft. Lauderdale, Florida as number eight; and Saltz Michelson Architects, Inc. of Ft. Lauderdale, Florida as number nine; and

WHEREAS, Eleventh, the Selection Committee opted to proceed with the second phase of the evaluation and short-list the top three firms for presentations; and

WHEREAS, Twelfth, the second phase of the RFQ provided that the proposals would be ranked on the following criteria: 1) Location of Proposer's firm; 2) Qualification of Proposer's Project Team, Proposer approach and methodology to the scope of services; 3) Past Performance; 4) Workload; 5) The volume of work previously awarded to Proposer; and 6) Whether Proposer is a certified minority business enterprise; and

WHEREAS, Thirteenth, on October 16, 2024, the Selection Committee, consisting of Kara Petty, Director of Parks and Recreation; Ryan Fernandes, Director of Technology Services; and Peter Johnson, Assistant Director of Public Works, met at a publicly noticed in-person meeting for vendor presentations and final ranking; and

WHEREAS, Fourteenth, the ranking of the second phase resulted in a first-place tie between Bermello, Ajamil & Partners, LLC of Ft. Lauderdale, Florida and WJ Architects, Inc. of St. Petersburg, Florida, and Walter Zackria Associates, PLLC of Ft. Lauderdale, Florida ranked third; and

WHEREAS, Fifteenth, pursuant to 4.7(B)-Evaluation of the Section 4 - Proposal Process of the RFQ requires that in the event of a tie, the City shall break the tie by drawing lots, which further resulted in final rankings of WJ Architects, Inc. of St. Petersburg, Florida as number one, Bermello,

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Ajamil & Partners, LLC of Ft. Lauderdale, Florida as number two and Walter Zackria Associates, PLLC of Ft. Lauderdale, Florida as number three; and

WHEREAS, Sixteenth, the City Commission desires to accept and ratify the rankings of the Selection Committee and authorizes the City Manager to negotiate and execute the Agreement, attached as Exhibit "A," with the number one ranked firm, WJ Architects, Inc. of St. Petersburg, Florida for RFQ No. 2024-09, Professional Architectural Services: Vista Park Phase II – Recreation Center, and if unable to negotiate the Agreement with the number one ranked firm, the City Manager is authorized to negotiate and execute the Agreement with the number two ranked firm, Bermello, Ajamil & Partners, LLC of Ft. Lauderdale, Florida.

NOW THEREFORE, BE IT RESOLVED by the City Commission of the City of Weston, Florida:

Section 1: The foregoing recitals contained in the preamble to this Resolution are incorporated by reference herein.

Section 2: The City Commission accepts and ratifies the final rankings of the firms for RFQ No. 2024-09, Professional Architectural Services: Vista Park Phase II – Recreation Center, as follows: WJ Architects, Inc. of St. Petersburg, Florida as number one, Bermello, Ajamil & Partners, LLC of Ft. Lauderdale, Florida as number two and Walter Zackria Associates, PLLC of Ft. Lauderdale, Florida as number three.

Section 3: The City Manager is authorized to negotiate and execute an Agreement with the number one ranked firm, WJ Architects, Inc. of St. Petersburg, Florida, for RFQ No. 2024-09, Professional Architectural Services: Vista Park Phase II – Recreation Center, in substantially the form attached as Exhibit "A," together with such non-substantial changes as may be acceptable to the City Manager and approved as to form and legality by the City Attorney.

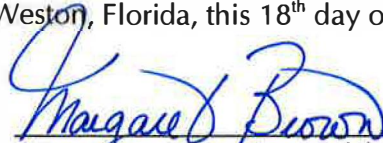
Section 4: If the City Manager is unable to negotiate the Agreement with number one ranked firm, then the City Manager is authorized to negotiate and execute an Agreement with the number two ranked firm, Bermello, Ajamil & Partners, LLC of Ft. Lauderdale, Florida in substantially the form attached as Exhibit "A," together with such non-substantial changes as may be acceptable to the City Manager and approved as to form and legality by the City Attorney.

Section 5: The appropriate City officials are authorized to execute all necessary documents and to take any necessary action to effectuate the intent of this Resolution.

Section 6: This Resolution shall take effect upon its adoption.

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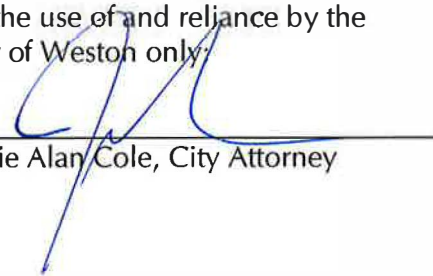
ADOPTED by the City Commission of the City of Weston, Florida, this 18th day of November 2024.


Margaret Brown, Mayor of the City of Weston

ATTEST:


Patricia A. Bates, MMC, City Clerk

Approved as to form and legality
for the use of and reliance by the
City of Weston only:


Jamie Alan Cole, City Attorney

Roll Call:

Commissioner Andrade	<u>Yes</u>
Vice Mayor Mead	<u>Yes</u>
Commissioner Molina-Macfie	<u>Yes</u>
Commissioner Jaffe	<u>Yes</u>
Mayor Brown	<u>Yes</u>

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Exhibit "A"

Agreement among the City of Weston, Florida and WJ Architects, Inc. of St. Petersburg, Florida, for Professional Architectural Services: Vista Park Phase II – Recreation Center, RFQ No. 2024-09.

(See Following 23 Pages)

AGREEMENT
BETWEEN THE
THE CITY OF WESTON, FLORIDA
AND
WJ ARCHITECTS, INC.
FOR

PROFESSIONAL ARCHITECTURAL SERVICES:
VISTA PARK PHASE II – RECREATION CENTER
RFQ. 2024-09

This Agreement, is made and entered into the _____ day of _____, 20____ by and between the City of Weston, a Florida municipal corporation ("CITY"), and WJ Architects, Inc. ("CONSULTANT") for Professional Architectural Services for Vista Park Phase II – Recreation Center ("Agreement"). References in this Agreement to "City Manager" shall be meant to include his designee.

WITNESSETH:

WHEREAS, the CITY, pursuant to Section 287.055, Florida Statutes, solicited proposals from CONSULTANTS to perform Professional Architectural Services for Vista Park Phase II – Recreation Center ("Services"); and

WHEREAS, proposals were evaluated and ranked by a Selection Committee; and

WHEREAS, the City Commission has selected the CONSULTANT to perform professional architectural services, at the sole discretion of the CITY; and

WHEREAS, on _____, the CITY enacted Resolution No. _____, which ratified or altered the ranking of the Proposals and authorized the City Manager to execute an Agreement with the CONSULTANT, WJ Architects, Inc.; and

WHEREAS, CITY and CONSULTANT desire to enter into an Agreement whereby the duties and obligations each to the other are set forth.

IN CONSIDERATION OF THE MUTUAL COVENANTS AND CONDITIONS HEREIN EXPRESSED AND THE FAITHFUL PERFORMANCE OF ALL SUCH COVENANTS AND CONDITIONS, THE PARTIES AGREE AS FOLLOWS:

SECTION 1
GENERAL INFORMATION

- 1.1 This Agreement is based on the General Information set forth herein and incorporates the Request for Qualifications for Professional Architectural Services for Vista Park Phase II – Recreation Center, RFQ 2024-09 (“RFQ”), attached hereto and made a part hereof, as Exhibit A; the CONSULTANT’s Scope of Services, attached hereto and made a part hereof, as Exhibit B.

The term of this Agreement shall begin on the date it is fully executed by both parties and shall extend until final completion of construction of the Project and Final Payment is made to the CONSULTANT. The parties hereto may extend this Agreement by mutual consent, in writing, prior to the expiration of the current term.

- 1.2 This Agreement may be terminated for cause by action of the City Commission if CONSULTANT is in breach and has not corrected the breach within 30 days after written notice from CITY identifying the breach, or for convenience by action of the City Commission upon not less than 30 days written notice by the City Manager. This Agreement may also be terminated by the City Manager upon such notice as the City Manager deems appropriate under the circumstances in the event the City Manager determines that termination is necessary to protect the public health, safety, or welfare.

A. This Agreement may be terminated for cause by CONSULTANT if CITY is in breach and has not corrected the breach within 60 days after written notice from CONSULTANT identifying the breach.

B. Termination of this Agreement for cause shall include but not be limited to, failure to suitably perform the Services, failure to continuously perform the Services in a manner calculated to meet or accomplish the objectives of CITY as set forth in this Agreement or multiple breaches of the provisions of this Agreement notwithstanding whether any such breach was previously waived or cured.

C. Notice of termination shall be provided in accordance with Section 8.7, NOTICES of this Agreement except that notice of termination by the City Manager which the City Manager deems necessary to protect the public health, safety or welfare may be verbal notice which shall be promptly confirmed in writing in accordance with Section 8.7, NOTICES of this Agreement.

D. In the event this Agreement is terminated for convenience, upon being notified of CITY’S election to terminate, CONSULTANT shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. CONSULTANT acknowledges and agrees that Ten Dollars (\$10.00) of the compensation to be paid by CITY, the adequacy of which is hereby acknowledged by CONSULTANT, is given as specific consideration to CONSULTANT for CITY’S right to terminate this Agreement for convenience.

- 1.3 The proposed project, Vista Park Phase II – Recreation Center shall be built on a vacant parcel of approximately 6 acres sq ft located at 18800 Vista Park Boulevard Weston, FL 33332. The parcel shall be developed for a Recreation Center that is approximately 40,000 square feet in size which serves as multipurpose gymnasium with the capacity for a minimum of the following: three basketball courts, a running upstairs track, a fitness/activity room, multipurpose rooms, break room, bathrooms, storage, standby power, among other spaces

and items. The exterior of the site shall a shaded Playground, a splashpad, multipurpose courts, shade structures, an exit drive to Vista Parkway, parking and conversion of two soccer fields to artificial turf fields. All the required parking and landscaping in accordance with City standards. The existing site has utility (water, wastewater, electric, telecom, etc.) connections available at the abutting public right-of-way.

The ingress and egress of the Recreation Center shall be on Vista Park Boulevard and the access road between Vista Park and Cypress Bay High School.

CITY's Authorized Representative: The City Manager or his designee.

- 1.4 The CITY and the CONSULTANT recognize that the information contained in this Section 1.0, General Information, may materially change and, in that event, the CITY and ARCHITECT shall review the schedule, the ARCHITECT's services and the ARCHITECT's compensation for any adjustments that may be mutually agreed upon, in writing.
- 1.5 CONSULTANT shall obtain a signed Work Authorization prior to commencement of Services. City shall not be responsible for payment for any work done without a signed Work Authorization.
- 1.6 If Work Authorization is approved or not approved, the CITY shall not be responsible for CONSULTANT'S cost related to the preparation and submittal of scope of work proposals.

SECTION 2 CONSULTANT'S RESPONSIBILITIES

- 2.1 The CONSULTANT shall provide the professional services as set forth in this Agreement and Exhibits thereto.
- 2.2 The CONSULTANT shall perform its Services consistent with the professional skill and care ordinarily provided by CONSULTANTS practicing in the same or similar locality under the same or similar circumstances. The CONSULTANT shall perform Services as expeditiously as is consistent with such professional skill and care and orderly progress of the Project.
- 2.3 The CONSULTANT shall identify a representative authorized to act on behalf of the CONSULTANT with respect to the Project.
- 2.4 The CONSULTANT shall maintain the following insurance for the duration of this Agreement, the cost of which shall be included in the CONSULTANT's compensation.

A. Standards of Insurance

1. Before performing any Work, Consultant shall procure and maintain, during the life of the contract, unless otherwise specified, insurance listed below. The policies of insurance shall be primary and written on forms acceptable to the City and placed with insurance carriers approved and licensed by the Insurance Department in the State of Florida and meet a minimum financial AM Best Company rating of no less than "A- Excellent: FSC VII." In the event that the insurance carrier's rating shall drop, the insurance carrier shall immediately notify the City. No changes shall be made to these specifications without prior written specific approval by the City.

2. All policies required by this contract, with the exception of Workers' Compensation, or unless specific approval is given by the City, are to be written on an occurrence basis, shall name "City of Weston" as Additional Insured during the project and for a minimum of five (5) years following the project completion and acceptance by the City or no more restrictive than ISO form CG 20 37 (07 04). Waiver of subrogation in favor of the City of Weston is required on all policies except Workers' Compensation. The CITY shall be named as additional insured on all policies except worker's compensation and professional liability.
3. Any person, organization, vehicle, equipment, or other person or property fulfilling this Agreement is bound by these insurance requirements.
4. Any changes to these specifications shall be at the sole and exclusive discretion of CITY.
5. CITY retains the right to review, at any time, policies, coverage, applicable forms/endorsements, and amounts of insurance.
6. CONSULTANT is responsible for repairing or replacing any damage to structures unless otherwise addressed within this Agreement.
7. Insurance shall not be suspended, voided or canceled except after 30 calendar days prior written notice by certified mail, return receipt requested, has been given to CITY, except the cancellation notice period for non-payment of premiums shall be 10 days.
8. Certificates of Insurance evidencing conditions to this agreement are to be furnished to City of Weston, 17200 Royal Palm Boulevard, Weston, FL 33326.
9. Notices of Accidents (occurrences) and Notices of Claims associated with work being performed under this Agreement shall be provided to CONSULTANT's insurance company and CITY as soon as practicable after notice to the insured.
10. CONSULTANT agrees by entering into this written Agreement that the insurance policies provided will include a Waiver of Subrogation in favor of CITY. CONSULTANT'S insurance shall be Primary and non-contributory.
11. CONSULTANT is responsible for any costs or expenses below deductibles, self-insured retentions, coverage exclusions or limitations, or coinsurance penalties.

A. Specific Coverage

The following specific insurance coverages apply or do not apply to this solicitation:

- Workers Compensation: CONSULTANT shall provide statutory workers' compensation, and employer's liability insurance with limits of not less than \$1,000,000 per employee per accident, \$1,000,000 disease aggregate and \$1,000,000 per employee per disease for all personnel on the worksite. If applicable, coverage for the Jones Act and United States Longshoremen and Harborworkers exposures must also be included. Elective exemptions shall NOT satisfy this requirement. Certificates evidencing an employee leasing company as employer shall not be accepted). In the event SERVICE PROVIDER has "leased" employees, SERVICE PROVIDER must provide a workers' compensation policy for all personnel on the worksite. All documentation must be provided for review and approval by CITY.

CONSULTANT is responsible for the Workers' Compensation of any and all subcontractors, including leased employees, used by Proposer. Evidence of workers' compensation insurance coverage for all subcontractors, including leased employees, must be submitted prior to any work being performed.

- Commercial General Liability: CONSULTANT shall provide evidence of commercial general liability on an occurrence Form no more restrictive than ISO form CG 2010, and including but not limited to bodily injury, property damage, contractual liability, products and completed operations (without limitation), and personal and advertising injury liability with limits of not less than \$1,000,000 each occurrence, and \$3,000,000 in aggregate, covering all work performed under this Agreement.
- Business Automobile Liability: CONSULTANT shall provide evidence of business automobile liability on a standard ISO form, and including per occurrence limits of not less than \$1,000,000 covering all work performed under this Agreement. Coverage shall include liability for owned, non-owned & hired automobiles. If private passenger automobiles are used in the business, they shall be commercially insured.
- Umbrella or Excess Liability: Umbrella policies are acceptable to provide the total required general liability, automobile liability, and employers' liability limits. Umbrella policies shall also name CITY as additional insured and coverage shall be provided on a "Follow Form" basis.
- Subcontractors: Insurance requirements itemized in this contract and required of CONSULTANT shall be provided on behalf of all subcontractors to cover their operations performed under this Agreement. CONSULTANT shall be held responsible for any modifications, deviations, or omissions in these insurance requirements as they apply to subcontractors.
- Pollution Liability: For sudden and gradual occurrences or claims made and, in an amount, no less than \$1,000,000 per claim and \$3,000,000 in the aggregate arising out of work performed under this Agreement, including but not limited to, all hazardous materials identified under the Agreement.

- Professional Liability: CONSULTANT shall maintain Professional Liability insurance for both the CONSULTANT and any professionals required to carry professional licenses. The policy shall be written at a limit of not less than \$2,000,000 Each Occurrence and \$4,000,000 Annual Aggregate.
- Hazardous Materials Insurance: For the purpose of this section, the term "hazardous materials" includes all materials and substances that are now designated or defined as hazardous by Florida or Federal law or by the rules or regulations of Florida or any Federal Agency. If work being performed involves hazardous materials, the need to procure and maintain any or all of the following coverage will be specifically addressed upon review of exposure. However, if hazardous materials are identified while carrying out this Agreement, the CITY shall be notified immediately, and no further work shall be performed in the area of the hazardous material until the SERVICE PROVIDER provides the following coverage(s) as determined solely by the CITY.
- Cyber Liability: CONSULTANT shall obtain, at CONSULTANT 's expense, and keep in effect during the term of this contract, Cyber Liability Insurance covering any damages arising from alteration of, loss of, or destruction of electronic data and/or information "property" of the CITY that will be in the care, custody, or control of CONSULTANT. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by CONSULTANT in this agreement and shall include, but not be limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, unauthorized access to a computer system, hacker attacks, denial of service attacks, malicious code, information theft, release of private information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations. Combined single limit per occurrence shall not be less than \$2,000,000.
- Builders' Risk – Property Coverage: a special form coverage shall include, but not be limited to:
1. Storage and transport of materials, equipment, supplies of any kind whatsoever to be used on or incidental to the project.
 2. Theft coverage.
 3. Waiver of Occupancy Clause endorsement, which will enable the CITY to occupy the facility under construction/renovation during such activity.
 4. Limits of insurance to equal 100% of the insurable completed contract amount of such addition(s), building(s) or structure(s), on an agreed amount/replacement cost basis, and Maximum deductible clause of \$10,000 each claim; exceptions may be made for Windstorm and Flood deductibles.
- Builders' Risk – Installation Coverage: For installation, CONTRACTOR must provide Builders' Risk installation coverage to include coverage for materials stored at the project site, property while in transit, and property stored at a temporary location for the amount of materials involved in this contract.

2.5 Errors and Omissions

The CONSULTANT shall be responsible for technically deficient designs, reports, or studies due to his errors and omissions, and shall promptly correct or replace all such deficient design work due to his errors and omissions without cost to CITY upon the request of the CITY for five years after the date of acceptance of the SERVICES by the CITY, when judged to have been in error by a court of competent jurisdiction. CONSULTANT shall also be responsible for the cost of correcting deficient construction which was built from technically deficient designs. Payment in full by the CITY for work performed does not constitute a waiver of this provision.

2.6 CONSULTANT'S Basic Services

CONSULTANT agrees to provide complete professional architectural services including the applicable Basic Services in accordance with all applicable federal, state, county and CITY, laws, codes ordinances and regulations. CONSULTANT shall maintain an adequate staff of qualified personnel on the Work at all times to ensure its performance as specified in the Agreement.

When submitting documents to the CITY, the CONSULTANT shall also submit, at no additional cost to the CITY, three (3) hard copies and documents in an electronic format in MS-Word, Excel, PDF and AutoCAD latest versions.

CONSULTANT may be required to perform all or some of the services presented in this Agreement, depending on the needs of the CITY for a particular project.

A. Studies and Reports

1. Identify and analyze requirements of governmental authorities having jurisdiction to approve portions of the project.
2. Evaluate various alternate solutions available to the CITY if described in the Work Authorization. After consultation with the CITY, recommend to CITY those solutions which, in CONSULTANT'S professional judgment, best meet CITY'S requirements for the project.

B. Statement of Probable Construction Cost

A Statement of Probable Construction Cost, prepared in Construction Standard Index (CSI) format, to include a summary of the estimated project cost. Such summary shall be in sufficient detail to identify the costs of each element and include a breakdown of the fees, general conditions and construction contingency. Such evaluation shall comprise a brief description of the basis for estimated costs per each element and similar project unit costs. Costs shall be adjusted to the projected bid date.

Any "Statement of Probable Construction Costs" prepared by CONSULTANT represents a reasonable estimate of cost in CONSULTANT's best judgment as a professional familiar with the local construction industry, industry recognized publications, historical price lists, or services estimating the current cost of comparable construction in South Florida.

C. Value Architecture

Recommendations for reducing the scope of the Project in order to bring the estimated costs within allocated funds, in the event that the Statement of Probable Construction Costs exceeds allocated funds, the CONSULTANT shall update its documentation, at no additional cost to the CITY, to reflect this reduced scope.

D. Preliminary Design Phase

1. On the basis of selection by the CITY of the recommended solution, or modified solution agreed upon by CITY and CONSULTANT, prepare preliminary design documents consisting of final design criteria, preliminary drawings, outline specifications, and written descriptions of the Project.
2. Based on the information contained in the preliminary design documents provide an updated Statement of Probable Construction Cost. If Statement of Probable Construction Cost exceeds allocated funds, CONSULTANT shall prepare recommendations for reducing the scope in order to bring the estimated costs within allocated funds. CONSULTANT shall update its documentation, at no additional cost to the CITY, to reflect this reduced scope.
3. Furnish preliminary design documents to and review them with the CITY within the stipulated period indicated in the Work Authorization and proposal.
4. CITY reserves the right to conduct a peer review of the project documents at any design stage. Cost of such a peer review would be borne by CITY. Any findings as a result of said peer review would be addressed by CONSULTANT, and if requested by CITY, would be incorporated into the design documents, at no additional cost to CITY.
5. For the purpose of payment to the CONSULTANT, services under the preliminary design Phase will be considered complete when the preliminary design documents have been accepted by the CITY as complete.
6. If the Project involves construction or demolition, the CONSULTANT shall prepare, from the approved Preliminary Design, modifications or changes, and construction documents consisting of working drawings and specifications setting forth in detail the work required for the civil, environmental, structural, mechanical, electrical, site, and other work, and the necessary bidding information, general conditions, supplementary conditions and proposal forms. The CONSULTANT shall submit to the CITY one (1) electronic set of all documents and three (3) copies of the Construction Documents, and a further revised Statement of Probable Construction Cost.
7. CONSULTANT shall include in construction documents requirement that Construction Consultant provide a final survey of the project by a Registered Surveyor and provide marked up construction drawings to CONSULTANT so the CONSULTANT can prepare and deliver to the CITY the record drawings in the form required by the CITY.

8. Prior to final approval of the construction documents by the CITY, the CONSULTANT shall conduct a preliminary check of any work products to ensure compliance with requirements of applicable agencies from which a permit or other approval is required.
9. CONSULTANT shall file and follow-up for all permits at the earliest practicable time during the design phase, the necessary portions of the construction documents for approval by applicable authorities having jurisdiction over the Project by law or contract with the CITY and shall assist in obtaining any such applicable certifications of permit approval by such authorities prior to approval by the CITY of the final set and printing of the Construction Documents. The CONSULTANT shall promptly advise the CITY of any substantial increases in costs set forth in the Statement of Probable Construction Cost that in the opinion of the CONSULTANT is caused by the requirement(s) of such.
10. CONSULTANT shall prepare all support documents to accompany any necessary permit applications. In addition to the required sets of bid documents, CONSULTANT shall provide, at no additional cost to the CITY, all necessary sets of sealed plans for permit applications. CONSULTANT shall respond to all technical questions from regulatory agencies. CONSULTANT shall modify, at no additional cost to the CITY, Construction Documents in order to acquire the necessary permits.
11. Should any component of the design or report not meet applicable regulations or codes in effect at the time of completion of design, the CONSULTANT shall redesign with no additional cost to the CITY.
12. Designing to Construction Cost Limit - If a construction cost limit is established by the CITY, such construction cost limit shall be set forth in the Work Authorization to the CONSULTANT. The written acceptance by the CITY at any time of a written Statement of Probable Construction Cost in excess of the then established construction cost limit will constitute a corresponding increase in the construction cost limit.
13. The CONSULTANT shall signify his responsibility for the construction documents prepared pursuant to this AGREEMENT by affixing his signature, date and seal thereto as required by Chapters 471 and 481, Florida Statutes.
14. When submitting documents to the CITY, the CONSULTANT shall also submit, at no additional cost to the CITY, three (3) hard copies and documents in an electronic format in WORD, Excel, PDF and AutoCAD latest versions.
15. CONSULTANT'S services under the design phase will be considered complete when the construction and bid documents are delivered to and accepted by the CITY, and finally complete when the CADD drawings in DXF format are delivered to and accepted by the CITY.

E. Bidding Phase

1. The CONSULTANT shall attend all pre-bid conferences, prepare and distribute minutes.

2. The CONSULTANT shall prepare Addenda as appropriate to clarify, correct, or change Bid Documents
3. If Pre-Qualification of bidders is required as set forth in the Request for Quotation, CONSULTANT shall assist CITY in developing qualification criteria, review qualifications of prospective bidders, and recommend acceptance or rejection of the prospective bidders
4. Should the lowest responsible, responsive bid meeting specifications exceed CONSULTANT'S Statement of Probable Construction Cost by 10% or more, CONSULTANT shall, at the CITY'S direction, redesign the Project at their actual cost with no overhead and profit added.
5. For the purpose of payment to the CONSULTANT, the Bidding Phase will terminate and the services of the CONSULTANT for this phase will be considered complete upon signing of an Agreement with a Contractor, or cancellation of the project by the CITY prior to signing of agreement with a Contractor. Rejection of bids by the CITY does not constitute cancellation of the project.

F. Construction Phase - General Administration of Construction Documents

1. To the extent provided by the Work Authorization, the CONSULTANT shall make recommendations to the CITY on all claims of the CITY and Consultant regarding interpretation of the construction documents, and on all other matters relating to the execution and progress of the work. The CONSULTANT shall check and approve samples, schedules, shop drawings, and other submissions for conformance with the concept of the Project, and for compliance with the information given by the Construction Documents, prepare Change Orders, assemble written guarantees required of the CONSULTANT, and approve progress payments to the CONSULTANT based on the Project Schedule of Values and percent of completion of Work.
2. The CONSULTANT shall carefully review and examine the CONSULTANT's Schedule of Values, together with any supporting documentation. The purpose of such review and examination will be to protect the CITY from an unbalanced Schedule of Values which allocates greater value to certain elements of the services that is indicated by industry standards, supporting documentation, or data.
3. If the Schedule of Values is not found to be appropriate, it shall be returned to the CONSULTANT for revision or supporting documentation. After making such examination, when the Schedule of Values is found to be appropriate, the CONSULTANT shall sign the Schedule of Values thereby indicating their informed belief that the Schedule of Values constitutes a reasonable, balanced basis for payment of the Contract Price to the CONSULTANT.
4. The CONSULTANT shall conduct a pre-construction meeting with the CONSULTANT, the CITY, and utility companies; prepare and distribute minutes of the meeting.

5. The CONSULTANT shall make inspections of the Work based on the type and frequency defined in the Scope of Work on which the CONSULTANT quoted. CONSULTANT'S inspections shall determine the progress and quality of the Work, and whether the Work is proceeding in accordance with the Construction Documents. CONSULTANT will provide the CITY with a written report of each inspection in order to inform the CITY of the progress of the Work. CONSULTANT shall endeavor to guard the CITY against defects and deficiencies in the work of CONSULTANT's and make written recommendation to the CITY that work fails to conform to the Construction Documents. Based on such inspections, and the CONSULTANT's Applications for Payment, he will recommend the amount owing to the CONSULTANT and will issue Certificates for Payment in such amount. These Certifications will constitute a representation to the CITY, based on such inspections and the data comprising the Application for Payment, that the work has progressed to the point indicated. By issuing a Certificate for Payment, the CONSULTANT will also represent to the CITY that, to the best of his knowledge, information, and belief, based on what his inspections have revealed, the work is in accordance with the Construction Documents. He will conduct inspections to determine the dates of substantial and final completion and recommend the issuance of a final Certificate for Payment. All inspections and Certificates of Payment provided by CONSULTANT shall be sufficient to provide all certifications required by applicable agencies.
6. The CONSULTANT shall revise the Construction Drawings and submit record drawings or corrected CADD drawings to the CITY to show those changes made during the construction process, based on the marked-up prints, drawings, and other data furnished by the Consultant.
7. The CONSULTANT shall attend regularly scheduled Progress Meetings on site, if included in the Scope of Work, prepare and distribute minutes.
8. The CONSULTANT shall prepare construction Change Orders for the CITY'S approval. CONSULTANT shall not authorize any changes in services or time, no matter how minor, without prior written approval of CITY.
9. Should CONSULTANT approve progress payments to CONSULTANT in excess of the value of the Work performed, and the Consultant defaults leaving insufficient funds to complete the Work, CONSULTANT shall reimburse the CITY for the difference between the amount of the progress payment actually approved and the amount which should have been approved.
10. If any portion of the work is covered, based on approval of CONSULTANT, without the CITY'S and Building Official's inspection and approval, the CITY'S representative may direct that portion of the work uncovered for inspection. If that portion of the work uncovered is not defective and is in accordance with the plans and specifications, CONSULTANT shall bear the cost of uncovering and covering the work. If that portion of the work uncovered is defective or not in accordance with the plans and specifications, the Consultant shall bear the cost of uncovering, repairing, and covering the Work.
11. For the purpose of payment to CONSULTANT, the Construction Phase shall be considered complete upon compilation of punch list by CONSULTANT, written

notification to Consultant by CONSULTANT of all documents, training, record drawings, releases of lien, and written recommendation by CONSULTANT of final payment.

12. CONSULTANT shall have no authority over or responsibility for the means, methods, techniques, sequences, or procedures selected by the construction consultant or for safety precautions and programs incident to the work of the construction consultant.

SECTION 3 ADDITIONAL SERVICES

If it should become necessary for the CITY to request CONSULTANT to render any additional services to either supplement the Services described in this RFQ or to perform additional work, such additional work shall be performed only if set forth in an amendment to this Agreement. Any such additional work agreed to by both parties shall be based on a lump sum as mutually agreed upon between the CONSULTANT and CITY.

SECTION 4 CITY'S RESPONSIBILITIES

- 4.1 The CITY shall identify a representative authorized to act on the CITY's behalf with respect to the Project.
- 4.2 The CITY shall assist CONSULTANT by placing at its disposal all available information for the Project, whenever reasonably possible.
- 4.3 The CITY shall provide the CONSULTANT access to the Project related areas.
- 4.4 The CITY shall reimburse the CONSULTANT for applicable permit application fees.

SECTION 5 COPYRIGHTS AND LICENSES OWNERSHIP OF DOCUMENTS

Unless otherwise provided by law, any and all reports, photographs, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of CITY. In the event of termination of this Agreement, any reports, photographs, surveys and other data and documents prepared by CONSULTANT, whether finished or unfinished, shall become the property of CITY and shall be delivered by CONSULTANT to the City Manager within seven (7) days of termination of this Agreement by either party. Any compensation due to CONSULTANT shall be withheld until all documents are received as provided herein.

All subcontracts for the preparation of reports, photographs, surveys and other data and documents entered into by CONSULTANT for a specific project shall provide that all documents and rights obtained by virtue of such contracts shall become the property of CITY.

SECTION 6 COMPENSATION

- 6.1 The amount of compensation payable by the CITY to CONSULTANT shall be based upon the prices as set forth in Exhibit B which amount shall be accepted by CONSULTANT as full compensation for all such work performed under this Agreement. It is acknowledged and agreed by CONSULTANT that these amounts are the maximum payable and constitute a limitation upon CITY'S obligation to compensate CONSULTANT for its services related to this Agreement. This maximum amount, however, does not constitute a limitation of any sort, upon CONSULTANT'S obligation to perform all items of work required by or which can be reasonably inferred from the Scope of Services.
- A. CONSULTANT may submit an invoice for compensation, developed and agreed upon by City Manager and CONSULTANT, no more often than on a monthly basis, but only after the services for which the invoices are submitted have been completed. Invoices shall designate the nature of the services performed and shall also show a summary of fees with accrual of the total and credits for portions paid previously. Each statement shall show the proportion of the guaranteed maximum payment that has been expended through previous billings.
- B. Notwithstanding any provision of this Agreement to the contrary, the City Manager may withhold, in whole or in part, payment to the extent necessary to protect CITY from loss on account of inadequate or defective work which has not been remedied or resolved in a manner satisfactory to the City Manager. The amount withheld shall not be subject to payment of interest by CITY.
- C. Payment shall be made to CONSULTANT in accordance with the local government prompt payment act as stipulated in part VII of Chapter 218, Florida Statutes, by check, electronic funds transfer (EFT), e-pay or p-card, or other method as determined by CITY in its sole discretion.

SECTION 7 INDEMNIFICATION

- 7.1 CONSULTANT shall 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 the CONSULTANT in the performance of the services under this Agreement.
- 7.2 CONSULTANT acknowledges that specific consideration has been paid or will be paid under this Agreement for this hold harmless and indemnification provision, and further agrees with the foregoing provisions of indemnity and with the collateral obligation of insuring said indemnity.
- 7.3 The provisions of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by the City Manager and the City Attorney, any sums due CONSULTANT under this Agreement may be retained by CITY until all of CITY's claims for indemnification pursuant to this Agreement have been settled or otherwise resolved; and any amount withheld shall not be subject to payment of interest by CITY.

SECTION 8
MISCELLANEOUS

- 8.1 Unless otherwise provided by law, any and all reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of CITY. Any compensation due to CONSULTANT shall be withheld until all documents are received as provided herein.
- 8.2 Audit and Inspection Rights, Retention of Records:
- A. CITY shall have the right to audit the books, records and accounts of CONSULTANT that are related to this Agreement. CONSULTANT shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement.
 - B. CONSULTANT agrees to keep such records and accounts as may be necessary in order to record complete and correct entries as to personnel hours charged for which CONSULTANT receives reimbursement. Such records and accounts shall be kept after completion of the work provided for in this Agreement, for at a minimum, the retention period required by the Florida Public Records Act (Chapter 119, Florida Statutes) and by item 340, Disbursement Records: Detail, of the State of Florida General Records Schedule GS1-SL for State and Local Government Agencies, as may be promulgated from time to time. Such books and records shall be available at all reasonable times for examination and audit by CITY.
 - C. Such retention of such records and documents shall be at CONSULTANT'S expense.
 - D. If any audit has been initiated and audit findings have not been resolved at the end of the retention period, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by CITY to be applicable to CONSULTANT'S records, CONSULTANT shall comply with all requirements thereof; however, no confidentiality or non-disclosure requirement of either federal or state law shall be violated by CONSULTANT. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for CITY'S disallowance and recovery of any payment upon such entry.
 - E. CONSULTANT shall respond to the reasonable inquiries of successor CONSULTANT(S) and allow successor CONSULTANT(S) to receive working papers relating to matters of continuing significance.
 - F. CONSULTANT shall provide a complete copy of all working papers to CITY, prior to final payment by CITY, in accordance with the Agreement for CONSULTANT'S services.
- 8.3 Public Records: CONSULTANT shall comply with The Florida Public Records Act as follows:
- A. Keep and maintain public records that ordinarily and necessarily would be required by the CITY in order to perform the service.

- B. Upon request by the City's records custodian, 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 in Chapter 119, Florida Statutes, or as otherwise provided by law.
- C. 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 term.
- D. Upon completion of the Agreement or in the event of termination of the Agreement by either party, any and all public records relating to the Agreement in the possession of CONSULTANT shall be delivered by CONSULTANT to CITY, at no cost to CITY, within seven (7) days. All records stored electronically by CONSULTANT 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 to the CITY upon completion or termination of this Agreement, CONSULTANT shall destroy any and all duplicate public records that are exempt or confidential and exempt from public record disclosure requirements.
- E. CONSULTANT'S failure or refusal to comply with the provisions of this Section shall result in the immediate termination of this Agreement by the CITY.

IF CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 954-385-2000, pbates@westonfl.org OR BY MAIL: City Of Weston – Office Of City Clerk, 17200 Royal Palm Boulevard, Weston, FL 33326.

8.4 Policy of Non-Discrimination: CONSULTANT shall not discriminate against any person in its operations, activities or delivery of services under this Agreement. CONSULTANT shall affirmatively comply with all applicable provisions of federal, state and local equal employment laws and shall not engage in or commit any discriminatory practice against any person based on race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for service delivery.

8.5 Public Entity Crime Act:

CONSULTANT represents that the execution of this Agreement will not violate the Public Entity Crime Act (Section 287.133, Florida Statutes), which essentially provides that a person or affiliate who is a CONSULTANT, CONSULTANT or other provider and who has been placed on the convicted vendor list following a conviction for a Public Entity Crime may not submit a bid on an contract to provide any goods or services to CITY, may not submit a bid on a contract with CITY for the construction or repair of a public building or public work, may not submit bids on leases of real property to CITY, may not be awarded or perform work as a CONSULTANT, supplier, SUBCONSULTANT, or CONSULTANT under a contract with CITY, and may not transact any business with CITY in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of thirty six (36) months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid hereto and may result in debarment from CITY'S competitive procurement activities.

In addition to the foregoing, CONSULTANT further represents that there has been no determination, based on an audit, that it committed an act defined by Section 287.433, Florida Statutes, as a "public entity crime" and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether CONSULTANT has been placed on the convicted vendor list.

8.6 Third Party Beneficiaries: Neither CONSULTANT nor CITY intends to directly or substantially benefit a third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them. Based upon this Agreement the parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

8.7 Notices: Whenever either party desires to give notice to the other, such notice shall be in writing, sent by certified United States mail postage, prepaid return receipt requested or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the parties designate the following:

CITY: Donald P. Decker, City Manager/CEO
Weston City Hall
17200 Royal Palm Boulevard
Weston, Florida 33326

With a copy to:

Jamie Alan Cole, Esq.
City Attorney
Weiss Serota Helfman Cole & Bierman, P.L.
200 East Broward Boulevard, Suite 1900
Fort Lauderdale, Florida

CONSULTANT: Jason Jansen, AIA, LEED AP, President
WJ Architect, Inc.
132 Mirror Lake Dr. N. Unit 301
St. Petersburg, FL 33701

8.8 Assignment and Performance. Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered by CONSULTANT, except with the prior approval of the City Manager, which shall be in his sole and absolute discretion. In addition, CONSULTANT shall not subcontract any portion of the work required by this Agreement, except with the prior approval of the City Manager, which shall be in his sole and absolute discretion. A list of all such subconsultants shall be included in the Proposal. If additional subconsultants are to be used during the term of this Agreement, other than those submitted in the Proposal, a list of such subconsultant shall be provided to the City Manager, subject to his approval.

CONSULTANT represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the RFQ and to provide and perform such services to CITY'S satisfaction for the agreed

compensation. CONSULTANT shall perform its duties, obligations and services under this Agreement in a skillful and respectable manner.

- 8.9 Conflicts. Neither CONSULTANT nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with CONSULTANT's loyal and conscientious exercise of judgment related to its performance under this Agreement.

In the event CONSULTANT is permitted to utilize SUBCONSULTANT to perform any services required by this Agreement, CONSULTANT agrees to prohibit such subconsultants, by written contract, from having any conflicts within the meaning of this section.

- 8.10 Contingency Fee. CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for CONSULTANT, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for CONSULTANT, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, CITY shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the Agreement price or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

- 8.11 Materiality and Waiver of Breach. CITY and CONSULTANT agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. CITY'S failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

- 8.12 Compliance with Laws. CONSULTANT shall comply with all federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement.

- 8.13 Severance. In the event a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless CITY or CONSULTANT elects to terminate this Agreement. An election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

- 8.14 Joint Preparation. The parties acknowledge that they have sought and received whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this Agreement has been their joint effort. The language agreed to expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

- 8.15 Priority of Provisions. If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of this Agreement, the term, statement, requirement, or provision contained in Articles 1 through 8 of this Agreement shall prevail and be given effect.

- 8.16 Applicable Law and Venue; Attorneys Fees and Costs. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. The parties submit to the jurisdiction of any Florida state or federal court in any action or proceeding arising out of, or relating to, this Agreement. Venue of any action to enforce this Agreement shall be in Broward County, Florida. The parties expressly waive all rights to trial by jury, including advisory juries, for any disputes arising from or in any way connected with this Agreement. The parties understand and agree that this waiver is a material contract term. This agreement is not subject to arbitration. If any party is required to enforce the terms of this Agreement by court proceedings or otherwise, whether or not formal legal action is required, each party shall pay its own attorney's fees and costs.
- 8.17 Amendments. No modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement.
- 8.18 Prior Agreements. This Agreement and its attachments constitute the entire agreement between CONSULTANT and CITY, and this document incorporates and includes all prior negotiations, correspondence, conversations, agreements, and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that no modification, amendment or alteration in the terms or conditions contained here shall be effective unless set forth in writing in accordance with Section 8.17 above.
- 8.19 Drug-Free Workplace. CONSULTANT shall maintain a drug-free workplace.
- 8.20 Incorporation by Reference. The truth and accuracy of each "Whereas" clause set forth above is acknowledged by the parties. The attached Exhibits are incorporated hereto and made a part of this Agreement.
- 8.21 Multiple Originals. This Agreement may be fully executed in two (2) copies by all parties each of which, bearing original signatures, shall have the force and effect of an original document.
- 8.22 Headings. Headings are for convenience of reference only and shall not be considered in any interpretation of this Agreement.
- 8.23 Binding Authority. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.
- 8.24 Survival of Provisions. Any terms or conditions of this Agreement that require acts beyond the date of its termination shall survive the termination of this Agreement, shall remain in full force and effect unless and until the terms of conditions are completed, and shall be fully enforceable by either party.

- 8.25 Truth-in-Negotiation Certificate. Signature of this Agreement by CONSULTANT shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting. The original contract price and any additions thereto shall be adjusted to exclude any significant sums by which the CITY determines the contract price was increased due to inaccurate, incomplete or noncurrent wage rates and other factual unit costs. All such contract adjustments must be made within one year following the end of this Agreement.
- 8.26 Non-Appropriation of Funds. In the event no funds or insufficient funds are appropriated and budgeted or are otherwise unavailable in any fiscal year for payments due under this Agreement, then the CITY, upon written notice to CONSULTANT of such occurrence, shall have the unqualified right to terminate this Agreement without any penalty or expense to the CITY.
- 8.27 Representative Designated for Each Party. The CITY designates the City Manager or designee as the person to whom all communications pertaining to the day-to-day operations of this Agreement shall be addressed. CONSULTANT shall inform the CITY representative in writing of the representative of CONSULTANT to whom all communications pertaining to the day-to-day action of this Agreement shall be addressed.
- 8.28 Default
- A. An event of default shall mean a breach of this Agreement by the CONSULTANT. Without limiting the generality of the foregoing and in addition to those instances referred to as a breach, an event of default shall include the following:
1. CONSULTANT has not performed services on a timely basis;
 2. CONSULTANT has refused or failed, except in the case for which an extension of time is provided, to supply enough properly skilled Staff personnel;
 3. CONSULTANT has become insolvent or has assigned the proceeds received for the benefit of the CONSULTANT's creditors, or the CONSULTANT has taken advantage of any insolvency statute or debtor/creditor law or if the CONSULTANT's affairs have been put in the hands of a receiver;
 4. CONSULTANT has failed to obtain the approval of the CITY where required by this Agreement;
 5. CONSULTANT has refused or failed, except in the case for which an extension of time is provided, to provide the Services as defined in this Agreement.
- B. In the event CONSULTANT fails to comply with the provisions of this Agreement the CITY may declare the CONSULTANT in default, notify the CONSULTANT in writing, and give the CONSULTANT a reasonable time to cure the default. In no event shall the time period for curing the defect exceed fifteen (15) business days unless otherwise agreed to by the parties. If the CONSULTANT fails to cure the default, compensation will only be for any completed professional services. In the event payment has been made for such professional services not completed, the CONSULTANT shall return these sums to the CITY within ten (10) days after notice

that these sums are due. Nothing in this Section shall limit the CITY's right to terminate, at any time, pursuant to this Agreement.

- C. In an Event of Default, the CONSULTANT shall be liable for all damages resulting from the default, including but not limited to:
1. lost funding, and
 2. the difference between the cost associated with procuring services and the amount actually expended by the CITY, including procurement and administrative costs.
 3. the CITY may take advantage of each and every remedy specifically existing at law or in equity. Each and every remedy shall be in addition to every other remedy specifically given or otherwise existing and may be exercised from time to time as often and in such order as may be deemed expedient by the CITY. The exercise or the beginning of the exercise of one remedy shall not be deemed to be a waiver of the right to exercise any other remedy. The CITY's rights and remedies as set forth in this Agreement are not exclusive and are in addition to any other rights and remedies available to the CITY in law or in equity.

8.29 Independent Contractor

CONSULTANT is an independent contractor under this Agreement. Services provided by CONSULTANT pursuant to this Agreement shall be subject to the supervision of CONSULTANT. In providing such services, neither CONSULTANT nor its agents shall act as officers, employees or agents of the CITY. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Agreement shall be those of CONSULTANT. This Agreement shall not constitute or make the parties a partnership or joint venture.

8.30 E-Verify

CONSULTANT shall comply with Section 448.095, Florida Statutes, "Employment Eligibility," including the registration and use of the E-Verify system to verify the work authorization status of employees. Failure to comply with Section 448.095, Florida Statutes shall result in termination of this Agreement. Pursuant to Section 448.095, Florida Statutes, any challenge to termination under this provision must be filed in the Circuit Court no later than 20 calendar days after the date of termination. Pursuant to Section 448.095, Florida Statutes, if this Agreement is terminated for a violation of the statute by CONSULTANT, CONSULTANT may not be awarded a public contract for a period of 1 year after the date of termination.

8.31 Electronic Signatures

CITY and CONSULTANT agree that this Agreement and any other documents to be delivered in connection herewith may be electronically signed, and that any electronic signatures appearing on this Agreement or such other documents are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.

8.32 Noncoercive Affidavit

In accordance with Section 787.06, Florida Statutes, the CITY requires all vendors executing, renewing or extending a contract with the CITY to execute the required CITY affidavit (Form 12), attesting that vendor does not use coercion for labor or services.

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AGREEMENT BETWEEN THE CITY OF WESTON, FLORIDA (THE "CITY") AND WJ ARCHITECTS, INC. FOR RFQ NO. 2024-09 FOR PROFESSIONAL ARCHITECTURAL SERVICES: VISTA PARK PHASE II – RECREATION CENTER.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature: City of Weston through its City Commission, signing by and through its Mayor, authorized to execute same by Commission action on the ____ day of _____, 20__; and _____ authorized to execute same.

CITY OF WESTON,
through its City Commission

By: _____
Margaret Brown, Mayor

ATTEST:

____ day of _____, 2024

Patricia A. Bates, MMC, City Clerk

By: _____
Donald P. Decker, City Manager /CEO

Approved as to form and legality
for the use of and reliance by the
City of Weston only:

____ e day of ____ e e _____, 2024

(CITY SEAL)

By: _____
Jamie Alan Cole, City Attorney

____ day of ____ e e _____, 2024

AGREEMENT BETWEEN THE CITY OF WESTON, FLORIDA (THE "CITY") AND WJ ARCHITECTS, INC. FOR RFQ NO. 2024-09 FOR PROFESSIONAL ARCHITECTURAL SERVICES: VISTA PARK PHASE II – RECREATION CENTER.

CONSULTANT: WJ ARCHITECTS, INC.

By: _____
Jason Jansen, AIA, LEED AP, President

_____ day of _____, 20____