

CITY OF NAPLES, FLORIDA
AGREEMENT
(PROFESSIONAL SERVICES – CONSTRUCTION MANAGER-AT-RISK)

Bid/Proposal No. **16-033**

Clerk Tracking No. 16-00086

Project Name: **Construction Manager-at-Risk Pedestrian Bridge & Boardwalk**

THIS AGREEMENT (the "Agreement") is made and entered into this **1st day of June 2016**, by and between the City of Naples, a Florida municipal corporation, (the "CITY") and **Manhattan Construction (Florida), Inc.**, a Florida Profit Corporation, authorized to do business in the State of Florida, whose business address is: 3705-1 Westview Drive; Naples, Florida 34104 (the "CONSULTANT").

WHEREAS, the CITY desires to obtain the services of the CONSULTANT concerning certain services specified in this Agreement (referred to as the "Project"); and

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

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

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

ARTICLE ONE
CONSULTANT'S RESPONSIBILITY

1.1. The Services to be performed by the CONSULTANT are generally described as **Construction Manager-at-Risk Pedestrian Bridge & Boardwalk** and may be more fully described in the Scope of Services, attached as **EXHIBIT A** and made a part of this Agreement.

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

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

1.4. The CONSULTANT agrees to employ and designate, in writing, within 5 calendar days after receiving its Notice to Proceed, or other directive from the CITY, a qualified licensed professional to serve as the CONSULTANT's project manager (the "Project Manager"). The Project Manager shall

be authorized and responsible to act on behalf of the CONSULTANT with respect to directing, coordinating and administering all aspects of the services to be provided and performed under this Agreement.

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

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

1.7 The CONSULTANT agrees not to employ or offer to employ any Elected Officer or City Managerial Employee of the CITY who in any way deals with, coordinates on, or assists with, the professional services provided in this Agreement, for a period of 2 years after termination of all provisions of this Agreement. For purposes of this paragraph, the term "Elected Officer" shall mean any member of the City Council. For purposes of this paragraph, the term "City Managerial Employee" shall mean the City Manager, the Assistant City Manager, the City Clerk, and any City department head or director. If the CONSULTANT violates the provisions of this paragraph, the CONSULTANT shall be required to pay damages to the CITY in an amount equal to any and all compensation which is received by the former Elected Officer or City Managerial Employee of the CITY from or on behalf of the contracting person or entity, or an amount equal to the former Elected Officer's or City Managerial Employee's last 2 years of gross compensation from the CITY, whichever is greater.

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

1.9. Except as otherwise provided in this Agreement, the CONSULTANT agrees not to disclose or use any information not available to members of the general public and gained by reason of the CONSULTANT's contractual relationship with the CITY for the special gain or benefit of the CONSULTANT or for the special gain or benefit of any other person or entity.

ARTICLE TWO CITY'S RESPONSIBILITIES

2.1. The CITY shall designate in writing a project coordinator to act as the CITY's representative with respect to the services to be rendered under this Agreement (the "Project Coordinator"). The Project Coordinator shall have authority to transmit instructions, receive information, interpret and define the CITY's policies and decisions with respect to the CONSULTANT's services for the Project.

However, the Project Coordinator is not authorized to issue any verbal or written orders or instructions to the CONSULTANT that would have the effect, or be interpreted to have the effect, of modifying or changing in any way whatever:

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

Any such modifications or changes ((a) (b) or (c)) shall only be made by or upon the authorization of the CITY's city manager as authorized by city council in the enabling legislation or in the CITY's procurement policies.

2.2. The Project Coordinator shall:

- (a) Review and make appropriate recommendations on all requests submitted by the CONSULTANT for payment for services and work provided and performed in accordance with this Agreement;
- (b) Arrange for access to and make all provisions for the CONSULTANT to enter the Project site to perform the services to be provided by the CONSULTANT under this Agreement; and
- (c) Provide notice to the CONSULTANT of any deficiencies or defects discovered by the CITY with respect to the services to be rendered by the CONSULTANT hereunder.

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

ARTICLE THREE TIME

3.1. Services to be rendered by the CONSULTANT shall be commenced subsequent to the execution of this Agreement upon written Notice to Proceed from the CITY for all or any designated portion of the Project and shall be performed and completed by **January 31, 2017 with a 30-day close out time frame**. Time is of the essence with respect to the performance of this Agreement.

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

3.3. No interruption, interference, inefficiency, suspension or delay in the commencement or progress of the CONSULTANT's services from any cause whatsoever, including those for which the CITY may be responsible in whole or in part, shall relieve the CONSULTANT of its duty to perform or



give rise to any right to damages or additional compensation from the CITY. The CONSULTANT's sole remedy against the CITY will be the right to seek an extension of time to its schedule. This paragraph shall expressly apply to claims for early completion, as well as claims based on late completion.

3.4. Should the CONSULTANT fail to commence, provide, perform or complete any of the services to be provided hereunder in a timely and reasonable manner, in addition to any other rights or remedies available to the CITY hereunder, the CITY at its sole discretion and option may withhold any and all payments due and owing to the CONSULTANT until such time as the CONSULTANT resumes performance of its obligations hereunder in such a manner so as to reasonably establish to the CITY's satisfaction that the CONSULTANT's performance is or will shortly be back on schedule.

ARTICLE FOUR COMPENSATION

4.1. The total compensation to be paid the CONSULTANT by the CITY for all Services is not to exceed **\$28,401.00 (Phase-1)** and shall be paid in the manner set forth in the "Basis of Compensation", which is attached as **EXHIBIT B** and made a part of this Agreement.

ARTICLE FIVE MAINTENANCE OF RECORDS

5.1. The CONSULTANT will keep adequate records and supporting documentation which concern or reflect its services hereunder. The records and documentation will be retained by the CONSULTANT for a minimum of five 5 years from the date of termination of this Agreement or the date the Project is completed, whichever is later. The CITY, or any duly authorized agents or representatives of the CITY, shall have the right to audit, inspect and copy all such records and documentation as often as they deem necessary during the period of this Agreement and during the 5 year period noted above; provided, however, such activity shall be conducted only during normal business hours. If the CONSULTANT desires to destroy records prior to the minimum period, it shall first obtain permission from the CITY in accordance with the Florida Public Records laws.

5.2 The CONSULTANT shall:

- (a) Keep and maintain public records that ordinarily and necessarily would be required by the CITY in order to perform the service.
- (b) Provide the public with access to public records on the same terms and conditions that the CITY would provide the records and at a cost that does not exceed the established cost of the CITY 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.
- (d) Meet all requirements for retaining public records and transfer, at no cost, to the public agency all public records in possession of the contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the CITY in a format that is compatible with the information technology systems of the CITY.
- (e) Promptly notify the CITY of any public records request.



ARTICLE SIX INDEMNIFICATION

6.1. The CONSULTANT agrees to indemnify and hold harmless the CITY from liabilities, damages, losses and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the CONSULTANT and persons employer or utilized by the CONSULTANT in the performance of the Contract.

ARTICLE SEVEN INSURANCE

7.1. The CONSULTANT shall obtain and carry, at all times during its performance under this Agreement, insurance of the types and in the amounts set forth in the document titled General Insurance Requirements, which is attached as **EXHIBIT C** and made a part of this Agreement.

7.2. In addition to the General Insurance Requirements in Exhibit C the CONSULTANT shall obtain and maintain Professional Liability Insurance to insure its legal liability for claims arising out of the performance of professional services under this Agreement. CONSULTANT waives its right of recovery against OWNER as to any claims under this insurance. Such insurance shall have limits of not less than \$1,000,000 each claim and in the aggregate.

ARTICLE EIGHT SERVICES BY CONSULTANT'S OWN STAFF

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

ARTICLE NINE WAIVER OF CLAIMS

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

ARTICLE TEN TERMINATION OR SUSPENSION

10.1. The CONSULTANT shall be considered in material default of this Agreement and such default will be considered cause for the CITY to terminate this Agreement, in whole or in part, as further set forth in this section, for any of the following reasons: (a) failure to begin work under the Agreement within the times specified under the Notice(s) to Proceed, or (b) failure to properly and timely perform

the services to be provided hereunder or as directed by the CITY, or (c) the bankruptcy or insolvency or a general assignment for the benefit of creditors by the CONSULTANT or by any of the CONSULTANT's principals, officers or directors, or (d) failure to obey laws, ordinances, regulations or other codes of conduct, or (e) failure to perform or abide by the terms or spirit of this Agreement, or (f) for any other just cause. The CITY may so terminate this Agreement, in whole or in part, by giving the CONSULTANT at least 3 calendar days' written notice.

10.2. If, after notice of termination of this Agreement as provided for in paragraph 10.1 above, it is determined for any reason that the CONSULTANT was not in default, or that its default was excusable, or that the CITY otherwise was not entitled to the remedy against the CONSULTANT provided for in paragraph 10.1, then the notice of termination given pursuant to paragraph 10.1 shall be deemed to be the notice of termination provided for in paragraph 10.3 below and the CONSULTANT's remedies against the CITY shall be the same as and limited to those afforded the CONSULTANT under paragraph 10.3 below.

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

ARTICLE ELEVEN CONFLICT OF INTEREST

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

ARTICLE TWELVE MODIFICATION

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

ARTICLE THIRTEEN NOTICES AND ADDRESS OF RECORD

13.1. All notices required or made pursuant to this Agreement to be given by the CONSULTANT to the CITY shall be in writing and shall be delivered by hand or by (USPS) United States Postal Service, first class mail service, postage prepaid, return receipt requested, or as otherwise agreed upon and addressed to the following CITY's address of record:

City of Naples
735 Eighth Street South
Naples, Florida 34102-3796
Attention: **A. William Moss**, City Manager

13.2. All notices required or made pursuant to this Agreement to be given by the CITY to the CONSULTANT shall be made in writing and shall be delivered by hand or by the (USPS) United



States Postal Service, first class mail service, postage prepaid, return receipt requested, or as agreed upon and addressed to the following CONSULTANT's address of record:

Manhattan Construction (Florida), Inc.
3705-1 Westview Drive
Naples, Florida 34104
Attention: **KP Pezeshkan**, Vice President
FEI/EIN Number: On File State (FL)

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

ARTICLE FOURTEEN MISCELLANEOUS

14.1. The CONSULTANT, in representing the CITY, shall promote the best interest of the CITY and assume towards the CITY a duty of care commensurate with that which is imposed upon persons or firms in consultant's profession.

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

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

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

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

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

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

14.8 To the extent that any provision in the Specifications or any other Contract Documents pertaining to this Project conflict with any provision of this Agreement, this Agreement controls.

14.9 Dispute Resolution. Disputes under this Agreement shall be resolved through mutual consultation between the parties within 14 days after notice; and failing resolution through mutual consultation, through mediation within 30 days thereafter; and failing mediation, through Arbitration under the Florida Arbitration Code, by a single arbitrator. If the parties cannot agree on a mediator

or arbitrator, within 14 days of failure of the previous method, they shall request the Chief Judge of the 20th Judicial Circuit to appoint a mediator, or an arbitrator, as the case may be. Time periods are waivable by mutual agreement of the parties, but shall not exceed 90 days for completion of the processes described herein, unless by mutual agreement. Costs of the mediator or arbitrator shall be shared equally.

14.10 Attorneys' fees. Except as otherwise provided herein, each party shall be responsible for its own attorneys' fees.

ARTICLE FIFTEEN APPLICABLE LAW

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

END OF ARTICLE PAGE



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

ATTEST:

CITY:

CITY OF NAPLES, FLORIDA,
A Municipal Corporation

By:  Patricia L. Rambosk, City Clerk

Patricia L. Rambosk, City Clerk

By: A. William Moss, City Manager

A. William Moss, City Manager

Approved as to form
and legal sufficiency:

By: Robert D. Pritt, City Attorney

Robert D. Pritt, City Attorney

CONSULTANT:

Manhattan Construction (Florida), Inc.
3705-1 Westview Drive
Naples, Florida 34104
Attention: **KP Pezeshkan**, Vice President

By: KP Pezeshkan

Printed Name: KP Pezeshkan

Title: Vice President

FEI/EIN Number: On File
A Florida Profit Corporation

(FL)

(CORPORATE SEAL)

Witness

Gerald Seckey
Witness Printed Name



EXHIBIT A

SCOPE OF SERVICES

The Scope of Services to be provided under this Agreement are included in Attachment A-1 which is attached and made a part of this Agreement and those set out in the RFQ, any issued Addendum(s) and Vendor's Submittal of (RFQ) Request For Qualifications No.16-033, titled Construction Manager-at-Risk Pedestrian Bridge & Boardwalk herein referenced and made a part of this Agreement.

END OF EXHIBIT A

A handwritten signature in the bottom right corner of the page, consisting of stylized initials or a name.

EXHIBIT 'A' SCOPE OF SERVICES

Construction Manager-at-Risk Pedestrian Bridge & Boardwalk

PROJECT BACKGROUND

Manhattan Construction, hereinafter Contractor, has been selected to provide construction management at-risk services (CM @ Risk) for the development of a pedestrian bridge over the Gordon River connecting to boardwalks between the Gordon River Greenway and Baker Park location. Included in this project is a pathway between the western boardwalk and Riverside Circle. This pathway may be omitted at the option of the City if Baker Park construction activities occur prior to or concurrently with the bridge and boardwalk construction.

The project has includes the four major components:

1. 12 feet paved pathway (1,294 feet) (optional)
2. West Boardwalk (280 feet)
3. Bridge (330 feet)
4. East Boardwalk (274 feet) over environmentally sensitive land

The project is currently in the design phase. Cardno, the design engineer, has reached the 60 % design stage.

The Pedestrian Bridge & Boardwalk CM @ Risk project will be accomplished in two phases. An Agreement for services will be developed for Phase I and then may be Amended for Phase II.

Phase 1 – Design Value Engineering, Cost Estimate Review, Constructability/Schedule Review, and development of a Gross Maximum Price (GMP) upon delivery of the 100% Construction Plans & Specifications

Phase 2 – Construction at Risk within a Gross Maximum Price

Phase I, the Contractor shall provide:

1. Written and detailed design review summaries of the project related to constructability, design flaws, recommendations to extend life of structures and components of structures, alternative and improved methods for protecting the environment and worker safety;
2. Cost Estimate Review of the Engineer's Cost Opinions;
3. Written and detailed recommendations for reducing construction and maintenance cost by way of alternative design, building materials and construction specifications;

4. Written and detailed summary of schedule and construction phasing development. The Contractor shall seek approaches that reduce construction time;
5. A Guaranteed Maximum Price (GMP) subsequent to the delivery of the 90% design plans and specifications. The City shall review and negotiate the GMP.

If approved by Amendment to this Agreement, Phase II shall require the Contractor to provide the following requirements during the construction phase:

1. "Open Book" procurement
2. Site planning/phasing plans
3. Competitive bids from all trades
4. Inspection services of all work
5. Supervise the work of all subcontractors
6. Assist City in direct material purchase
7. Safety supervision
8. Red-line as built documents
9. Warrantees

Additional requirements may be developed and defined specifically as part of a future Amendment to this Agreement.

SERVICIES TO BE PERFORMED – Phase 1

1. Budget conformation/estimates: The design Engineer has established a 60 % engineer opinion of cost and will do so at 90% design stage. The Contractor shall review these estimates and will validate in their opinion the construction cost reflecting a project that is anticipated to begin construction first quarter of 2017.
2. Design reviews for constructability: During the RFQ process, the various proposers had identified potential constructability concerns with the 60% design as well as opportunities for cost savings. The Contractor shall assemble these items, identify others, and participate at a one day Value Engineering (VE) workshop with the design engineer. Each item will be identified, in writing, by the Contractor and discussed. Please refer to Phase I, #'s 1-4.

A subsequent meeting may be held with the Engineer to receive their opinion of the items identified during the initial VE workshop. Based on input from the Engineer and The Contractor, the City shall give direction to the design engineer and the Contractor on how to proceed to final design.

At the 90% design stage, the design engineer will provide design documents and specifications for review. The Contractor shall review these documents for consistency with City direction (given after the 60% review), constructability, and provide feedback to the City.

3. Schedule and construction phasing development: During the RFQ process, The Contractor developed a detail construction schedule. A meeting with the design engineer will be held to review this schedule. An updated schedule will be developed at the 90% stage. This update schedule will be used in the development of the Guaranteed Maximum Price.
4. Develop a Guaranteed Maximum Price (GMP): At the 90% design stage, the Contractor will develop a GMP for the project. The Contractor may not perform more than 15% of the entire project, as determined by cost. A minimum of 85% of the construction is to be done by others. The Contractor is required to solicit at least three bids for each project component/materials purchase, including self performed items. The City may reduce the bid requirement to two as determined by the City Engineer. Upon request to the City Engineer, the City Engineer may also allow the Contractor to self-perform up to 30% of the work. The City Engineer has no obligation to increase self-performed work. The GMP components/materials will be reviewed in detail by the City and a final GMP along with construction at risk services may be incorporated into Phase 2 by way of an Amendment to this Agreement. The cost for the development of the GMP will be negotiated and may be identified for payment as part of Phase 2, above the GMP cost.
5. Establish a fixed fee percentage for construction phase services: The Contractor shall be paid a fixed percentage fee for providing CM @ Risk services as part of Phase II. This fee is established based on the level of complications and risk involved in the construction within environmentally sensitive lands and working in and around navigable waters. For this project, there will be a **7.5% fixed fee** applied to the GMP.

SERVCIES TO BE PERFORMED – Phase 2

Construction management at risk in accordance with the plans and specifications developed by Cardno and for a GMP as determined in Phase I.

COMPENSATION

In accordance with Article 4 of the Agreement, City will compensate Phase 1 services in accordance with the Lump Sum (LS) method of payment for each Task 1 through 4

A Guaranteed Maximum Price (GMP) subsequent to the delivery of the 90% design plans and specifications. The City shall review and negotiate the GMP. The cost for the development of the GMP, and any revisions thereafter, will be negotiated and may be identified for payment as part of Phase 2, above the GMP cost or may be included within the fixed 7.5% management at risk fee. The fee for developing the GMP shall not exceed \$39,240.

Details of the costs associated with the compensation for Phase 1 services can be found on the attached excel spread sheet with a breakdown of staff involved, hourly rates, and durations.



EXHIBIT B

BASIS OF COMPENSATION

As consideration for providing the Services as set forth in the Agreement, the CITY agrees to pay, and the CONSULTANT agrees to accept payment on a monthly basis on the percentage of work completed and as indicated in Exhibit B **which is attached and made a part of this Agreement.**

Construction Manager-at-Risk Pedestrian Bridge & Boardwalk
Phase 1 - Preconstruction Services

ACTIVITY	Project Director		Project Manager		Engineer		Sr. Superintendent		Sr. Estimator		Jr. Estimator		Administrative		Task Total	PHASE I TOTAL
	Staff Hours	Hourly Rate	Staff Hours	Hourly Rate	Staff Hours	Hourly Rate	Staff Hours	Hourly Rate	Staff Hours	Hourly Rate	Staff Hours	Hourly Rate	Staff Hours	Hourly Rate		
Task #1 Design Review Summaries	12	\$ 151.00	32	\$ 106.00	40	\$ 50.00	20	\$ 131.00	0	\$ 101.00	0	\$ 67.00	2	\$ 45.00	\$ 9,914.00	
Task #2 Engineer's Cost Opinion Rev	6	\$ 151.00	12	\$ 106.00	2	\$ 50.00	10	\$ 131.00	20	\$ 101.00	46	\$ 67.00	3	\$ 45.00	\$ 8,825.00	
Task #3 Value Engineering Report	10	\$ 151.00	15	\$ 106.00	40	\$ 50.00	20	\$ 131.00	0	\$ 101.00	0	\$ 67.00	2	\$ 45.00	\$ 7,810.00	
Task #4 Schedule & Construction Ph	2	\$ 151.00	6	\$ 106.00	6	\$ 50.00	4	\$ 131.00	0	\$ 101.00	0	\$ 67.00	2	\$ 45.00	\$ 1,852.00	
Task #5 Development of GMP	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	
TOTALS	30	\$4,530	65	\$6,890	88	\$4,400	\$54	\$7,074	\$20	\$2,020	\$46	\$3,082	\$9	\$405	\$28,401	

Retainage: Not applicable to this Agreement.

END OF EXHIBIT B

EXHIBIT C

GENERAL INSURANCE REQUIREMENTS

The CONSULTANT shall not commence work until he has obtained all the insurance required under this heading, and until such insurance has been approved by the Owner, nor shall the CONSULTANT allow any sub-consultant to commence work until all similar insurance required of the sub-consultant as also been obtained and approved by the Owner.

Certificates of insurance must be issued by an authorized representative of the insurance company at the request and direction of the policyholder and must include sufficient information so as to identify the coverage and the contract for Owner's improvements for which they are issued. Certificates of insurance must be issued by a nationally recognized insurance company with a Best's Rating of no less than B+VII, satisfactory to the Owner, and duly licensed to do business in the state of said Contract.

The CONSULTANT shall procure and maintain, during the life of this Contract, Workmen's Compensation Insurance for all of his employees to be engaged in work under this Contract, and he shall require any sub-consultant similarly to provide Workmen's Compensation Insurance for all of the latter's employees to be engaged in such work, unless such employees are covered by the protection afforded by the CONSULTANT's insurance. In case any employees are to be engaged in hazardous work under this Contract, and are not protected under this Workmen's Compensation statute, the CONSULTANT shall provide, and shall cause each sub-consultant to provide, adequate coverage for the protection of such employees. It is acceptable to use a State-approved Workmen's Compensation Self-Insurance fund.

Except for Worker's Compensation coverage, or unless waived by the City in writing, the CONSULTANT shall take out and maintain during the life of this Contract, Public Liability and Property Damage and shall include Contractual Liability, Personal Injury, Libel, Slander, False Arrest, Malicious Prosecution, Wrongful Entry or Eviction, Broad Form Property Damage, Products, Completed Operations and XCU Coverage to be included on an occurrence basis, and to the full extent of the Contract to protect him, the Owner, and any sub-consultant performing work covered by this Contract from damages for personal injury, including accidental death, as well as from claims for property damage, which may arise from operations under this contract, whether such operations be by himself or by a sub-consultant, or by anyone directly or indirectly employed by either of them. The CONSULTANT shall also maintain automobile liability insurance including "non-owned and hired" coverage. The entire cost of this insurance shall be borne by the CONSULTANT.

The amount of such insurance shall be no less than \$1,000,000 annual aggregate for bodily injury and property damage combined per occurrence.

Except for the Worker's Compensation and Professional Liability, the City of Naples must be named as Additional Insured on the insurance certificate and the following must also be stated on the certificate. "These coverage's are primary to all other coverage's the City possesses for this contract only." The City of Naples shall be named as the Certificate Holder. The Certificate Holder shall read as follows:

City of Naples
Attention: City Manager
735 Eighth Street South
Naples, Florida 34102

No City Division, Department, or individual name should appear on the Certificate.
No other format will be acceptable, without prior approval of the City.

The Certificate must state the bid number and title. When using the ACORD 25 – Certificate of Insurance--only the most current version will be accepted.

The City of Naples requires a copy of a cancellation notice in the event the policy is cancelled. The City of Naples shall be expressly endorsed onto the policy as a cancellation notice recipient.

[If other insurance or insurance requirements or any waivers, attach as Exhibit C-1 through C-__]



EXHIBIT D

CERTIFICATION OF COMPLIANCE WITH IMMIGRATION LAWS

The undersigned is the **Vice President of Manhattan Construction (Florida), Inc.**, company ("the CONSULTANT"), and hereby certifies to the following:

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

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

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

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

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

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

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

Executed this 23 day of May, 2016.

By: 

