

**THIRD AMENDMENT TO AGREEMENT BETWEEN BROWARD COUNTY AND
HARDESTY & HANOVER, LLP, FOR CONSULTANT SERVICES FOR THE ANDREWS AVENUE OVER
NEW RIVER-BRIDGE REHABILITATION PROJECT**

(RLI #: R0921221R1)

This is a Third Amendment (“Third Amendment”) to an agreement between BROWARD COUNTY, a political subdivision of the State of Florida (“COUNTY”), and HARDESTY & HANOVER, LLP, a foreign limited liability partnership, authorized to conduct business in the State of Florida (“HARDESTY”), for consultant services for Andrews Avenue over New River-Bridge Rehabilitation Project. COUNTY and HARDESTY are herein after referred to collectively as the “Parties” and individually referred to as a “Party.”

RECITALS

- A. COUNTY and HARDESTY entered into the original agreement on June 12, 2012, as amended by the First Amendment dated March 20, 2013, and the Second Amendment dated October 27, 2015 (collectively the “Agreement”), for the provision of consultant services for the Andrews Avenue over New River-Bridge Rehabilitation Project (the “Project”).
- B. Pursuant to Section 6.1 of the Agreement, either Party may request changes that would increase, decrease, or otherwise modify the Scope of Services to be provided under the Agreement.
- C. COUNTY has determined that additional services are necessary for the completion of the Project, and HARDESTY has agreed to provide such additional services under the terms set forth herein.
- D. Additionally, HARDESTY has changed its corporate name and its name is now Hardesty & Hanover, LLC.
- E. The Parties desire to amend the Agreement to include additional Phase II, Post Design Services; to supplement Section 2.2 of Exhibit “A” of the Agreement, with the attached Exhibit “A-3”; and to reflect the corporate name change.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

- 1. The recitals set forth above are true, accurate, and fully incorporated in this Third Amendment by this reference.
- 2. Unless otherwise stated, words in ~~struck through~~ type are deletions from existing text and words in underlined type are additions to existing text.
- 3. All references to Hardesty & Hanover, LLP in the Agreement shall be replaced with Hardesty & Hanover, LLC. The term HARDESTY shall refer to Hardesty & Hanover, LLC.
- 4. Section 3.1 of the Agreement is hereby amended to read as follows:

- 3.1 HARDESTY's services shall consist of the phases set forth in Exhibits "A," "A-1," ~~and "A-2,"~~ and "A-3," attached hereto and made a part hereof, and shall include civil, structural, mechanical, and electrical engineering, architectural services, and other professional design services, as applicable for the Project. HARDESTY shall provide all services as set forth in Exhibits "A," "A-1," ~~and "A-2,"~~ and "A-3," including all necessary, incidental, and related activities and services required by the Scope of Services and contemplated in HARDESTY's level of effort.
5. Sections 4.1 and 4.2 of the Agreement are hereby amended to read as follows:
- 5.1 HARDESTY shall perform the services described in Exhibits "A" "A-1," ~~and "A-2,"~~ and "A-3," within the time periods specified in the Schedule included in each; said time periods shall commence from the date of the Notice to Proceed for such services.
- 5.2 Prior to beginning the performance of any services under this Agreement, HARDESTY must receive a Notice to Proceed. HARDESTY must receive written approval from the Contract Administrator prior to beginning the performance of services in any subsequent phases of this Agreement. Prior to granting approval for HARDESTY to proceed to a subsequent phase, the Contract Administrator may, at his or her sole option, require HARDESTY to submit the itemized deliverables and documents identified in Exhibits "A," "A-1," ~~and "A-2,"~~ and "A-3," for the Contract Administrator's review.
6. Section 5.1.1 of the Agreement is hereby amended to read as follows:
- 6.1 AMOUNT AND METHOD OF COMPENSATION
- 5.1.1 Maximum Amount Not-To-Exceed Compensation
- Compensation to HARDESTY for the performance of any and all the services related to or identified in Task 2.2, Phase II, Post Design Services of Exhibit "A" and Exhibit "A-3" identified in Exhibit "A" and as otherwise required by this Agreement, shall be based upon the Salary Costs as described in Section 5.2 and as follows: up to a maximum amount not-to-exceed of One Hundred Seventy-five Thousand Four Hundred Ninety and 76/100 Dollars (\$175,490.76) for any and all services related to or identified in Task 2.2, Phase II, Post Design Services of Exhibit "A"; and up to a maximum amount not-to-exceed of One Hundred Forty One Thousand Three Hundred Forty-five and 74/100 Dollars (\$141,345.74) for any and all services related to or identified in Exhibit "A-3." ~~for services related to Task 2.2, Phase II, Post Design Services.~~ HARDESTY shall perform all services designated as Maximum Amount Not-To-Exceed set forth herein for total compensation in the amount of or less than that stated above.
7. Section 10.32 of the Agreement is hereby amended to read as follows:
- 10.32 PUBLIC RECORDS

COUNTY is a public agency subject to Chapter 119, Florida Statutes. To the extent HARDESTY is a contractor acting on behalf of the COUNTY pursuant to Section 119.0701, Florida Statutes, HARDESTY and its subconsultants and subcontractors shall:

10.32.1 Keep and maintain public records that ordinarily and necessarily would be required by COUNTY in order to perform the service;

10.32.2 Upon request from COUNTY, provide COUNTY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time and the public with access to such public records on the same terms and conditions that COUNTY would provide the records and at a cost that does not exceed that provided in Chapter 119, Florida Statutes, or as otherwise provided by law;

10.32.3 Ensure that public records that are exempt or that are confidential and exempt from public record requirements are not disclosed except as authorized by law for the duration of this Agreement and following completion or termination of this Agreement if the records are not transferred to COUNTY; and

10.32.4 Upon completion or termination of this Agreement, Meet all requirements for retaining public records and transfer to COUNTY, at no cost, all public records in its possession of HARDESTY or keep and maintain public records required by COUNTY to perform the services. If HARDESTY transfers the records to COUNTY, HARDESTY shall upon termination of the applicable contract and destroy any duplicate public records that are exempt or confidential and exempt. If HARDESTY keeps and maintains the public records, HARDESTY shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to COUNTY upon request in a format that is compatible with the information technology systems of COUNTY.

A request for public records regarding this Agreement must be made directly to COUNTY, who will be responsible for responding to any such public records requests. HARDESTY will provide any requested records to COUNTY to enable COUNTY to respond to the public records request.

Any material submitted to COUNTY that HARDESTY contends constitutes or contains trade secrets or is otherwise exempt from production under Florida public records laws (including Chapter 119, Florida Statutes) ("Trade Secret Materials") must be separately submitted and conspicuously labeled "EXEMPT FROM PUBLIC RECORD PRODUCTION – TRADE SECRET." In addition, HARDESTY must, simultaneous with the submission of any Trade Secret Materials, provide a sworn affidavit from a person with personal knowledge attesting that the Trade Secret Materials constitute trade secrets under Section 812.081, Florida Statutes, and stating the factual basis for same. In the event that a third party submits a request to COUNTY for records designated by HARDESTY as Trade Secret Materials, COUNTY shall refrain from disclosing the Trade Secret Materials, unless otherwise ordered by a court of competent jurisdiction or authorized in writing by

HARDESTY. HARDESTY shall indemnify and defend COUNTY and its employees and agents from any and all claims, causes of action, losses, fines, penalties, damages, judgments and liabilities of any kind, including attorneys' fees, litigation expenses, and court costs, relating to the nondisclosure of any Trade Secret Materials in response to a records request by a third party.

IF HARDESTY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO HARDESTY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (954) 357-6040, ATON@BROWARD.ORG, 1600 BLOUNT ROAD, POMPANO BEACH, FL 33309.

~~The failure of HARDESTY to comply with the provisions set forth in this Section shall constitute a default and breach of this Agreement, and COUNTY shall enforce the default in accordance with the provisions set forth in Section 10.2.~~

8. Unless otherwise defined in this Third Amendment, the capitalized terms in this Third Amendment have the respective meanings ascribed to them in the Agreement and the definitions of those in the Agreement are incorporated by reference into this Third Agreement. In the event of any conflict or ambiguity between this Third Amendment and the Agreement, the Third Amendment shall control.
9. This Third Amendment is effective on the date of execution by the Parties. Except as expressly amended in this Third Amendment, all terms and conditions of the Agreement remain in full force and effect.
10. This Third Amendment 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 Third Amendment that are not contained in the Agreement and this Third Amendment.
11. This Third Amendment has been jointly prepared by the Parties and shall not be construed more strictly against either Party.
12. This Third Amendment may be executed in multiple originals, and may be executed in counterparts, each of which will be deemed to be an original, but all of which, taken together, constitutes one and the same agreement.
13. Each individual executing this Third Amendment represents and warrants that he or she is, on the date of execution, duly authorized by all necessary and appropriate action to execute this Third Amendment on behalf of such Party and does so with full legal authority.
14. HARDESTY acknowledges that, through the date hereof, it has no claims against COUNTY with respect to any of the matters covered by the Agreement, as amended.

IN WITNESS WHEREOF, the Parties have made and executed this Third Amendment to the Agreement on the respective dates under each signature: BROWARD COUNTY, through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Vice-Mayor, authorized to execute same by Board action on the ____ day of _____, and HARDESTY & HANOVER, LLC, signing by and through its _____, duly authorized to execute same.

COUNTY

WITNESS #1:

Broward County, by and through its Board of County Commissioners

Signature

By _____
Mayor

____ day of _____, 2020

Print Name of Witness

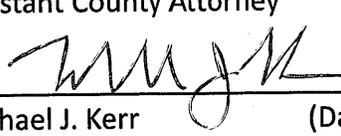
WITNESS #2:

Approved as to form by
Andrew J. Meyers
Broward County Attorney
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-7641

Signature

By  _____ 2/20/2020
Sara F. Cohen (Date)
Assistant County Attorney

Print Name of Witness

By  _____ 2/20/2020
Michael J. Kerr (Date)
Deputy County Attorney

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HARDESTY

WITNESSES: 1



Signature

HARDESTY & HANOVER, LLC

By: 

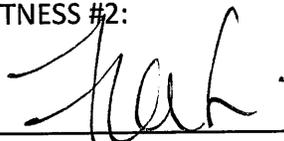
Authorized Signature

By: MICHAEL SILANO, P.E. Principal
Print name and title of Authorized Signor

SABRINA SANCHEZ
Print Name of Witness

19th day of February, 2020

WITNESS #2:



Signature

HENRY SINSON
Print Name of Witness

Exhibit A- 3
Scope of Services

HARDESTY shall perform the following services and provide the following deliverables in the manner and according to the timeframes set forth below:

2.2. Phase II- Post Design

1. Services

- HARDESTY shall investigate and provide for the Andrews Avenue Drawbridge a Complete Load Rating and As-Built Load Rating Package for Rehabilitations, as per the Florida Department of Transportation (FDOT) 2019 Bridge Load Rating Manual.
- HARDESTY shall, following the latest FDOT's Bridge Load Rating Manual, provide load rating analysis to determine the safe carrying capacity of the Andrews Avenue Drawbridge.

2. Deliverables

- HARDESTY shall complete and submit a sealed Design Load Rating Report to FDOT & Broward County.
- HARDESTY shall complete and submit a sealed As-Built Load Rating Report to FDOT & Broward County.

3. Schedule

- Design Load Rating Report on or before 60 days of the execution of this Third Amendment and after receiving the necessary as-built information.
- The As-Built Load Rating Report must be submitted on or before 30 days after the final completion of the Project.