

FIRST AMENDMENT TO
AGREEMENT

Between

BROWARD COUNTY

and

HAZEN AND SAWYER, P.C.

for

CONSULTANT SERVICES FOR
NORTH REGIONAL WASTEWATER TREATMENT PLANT – CAPACITY
IMPROVEMENTS

RLI# R0999201R1

This is the First Amendment to the Agreement dated August 13, 2013, made and entered into by and between: BROWARD COUNTY, a political subdivision of the State of Florida ("COUNTY"), and HAZEN AND SAWYER, P.C., a foreign profit corporation, authorized to conduct business in the State of Florida ("CONSULTANT"), (collectively referred to as the "Parties").

WITNESSETH:

WHEREAS, the Parties entered into an Agreement on August 13, 2013, for Consultant Services for the North Regional Wastewater Treatment Plant (NRWWTP) Capacity Improvements project (the "Agreement"); and

WHEREAS, pursuant to Article 6 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; and

WHEREAS, the Parties desire to amend the Agreement to provide for additional time and effort related to well inspection services for the NRWWTP capacity improvements project; and

WHEREAS, the Parties met and negotiated the fees for the additional well inspection services, all in accordance with the Broward County Procurement Code, and this First Amendment to the Agreement incorporates the results of such negotiation;
NOW, THEREFORE,

IN CONSIDERATION of the mutual terms, conditions, promises, and covenants hereinafter set forth, the Parties agree as follows:

1. The above recitals are true and correct and are incorporated herein as if set forth in full hereunder.

2. Unless otherwise stated, words in ~~struck through~~ type are deletions from existing text and words in underline type are additions to existing text.

3. Article 1, Definitions and Identifications, Sections 1.4, 1.9, and 1.11 are hereby amended to read as follows (original bold and underlining omitted):

1.4 ~~Contract Administrator: The Director of Broward County Water and Wastewater Engineering Division, or designee~~ Assistant Director of Broward County Water and Wastewater Engineering Division, who is the representative of COUNTY concerning the Project. In the administration of this Agreement, as contrasted with matters of policy, all parties may rely upon instructions or determinations made by the Contract Administrator; provided, however, that such instructions and determinations do not change the Scope of Services.

1.9 ~~Notice To Proceed: A written notice~~ authorization to proceed with the Project, phase, or task thereof, issued by the Contract Administrator.

1.11 ~~Subconsultant: A firm, partnership, corporation, independent contractor (including 1099 individuals), or combination thereof having a direct contract with a Consultant providing services to COUNTY through CONSULTANT for all or any portion of the advertised work or who furnishes skills or materials worked into a special design according to the plans and specifications for such work, but not those who merely furnish equipment or materials required by the plans and specifications.~~

4. Article 3, Scope of Services, Section 3.4 is hereby amended to read as follows:

3.4 ~~CONSULTANT shall pay its CBE subconsultants, subcontractors, and suppliers, within fifteen (15) days following receipt of payment from COUNTY for such subcontracted work and pay all other subconsultants, subcontractors, and suppliers, within thirty (30) days following receipt of payment from the COUNTY for such subcontracted work or supplies. CONSULTANT agrees that if it withholds an amount as retainage from CBE its subconsultants, subcontractors, or suppliers that it will release such retainage and pay same within fifteen (15) days following receipt of payment of retained amounts from COUNTY. For all other subconsultants, subcontractors, or suppliers, CONSULTANT agrees that if it withholds an amount as retainage from such subconsultants, subcontractors, or suppliers, that it will release such retainage and pay same within thirty (30) days following receipt of payment of retained amounts from COUNTY. The Contract Administrator may, at its option, increase allowable retainage or withhold progress payments unless and until CONSULTANT demonstrates~~

timely payments of sums due to all subconsultants, subcontractors, and suppliers.

5. Article 4, Time for Performance, Section 4.3 is hereby amended to read as follows:

4.3 In the event CONSULTANT is unable to complete the above services because of delays resulting from untimely review by COUNTY or other governmental authorities having jurisdiction over the Project, and such delays are not the fault of CONSULTANT, or because of delays which were caused by factors outside the control of CONSULTANT, COUNTY shall grant a reasonable extension of time for completion of the services and shall provide reasonable compensation, if appropriate. It shall be the responsibility of CONSULTANT to notify COUNTY the Contract Administrator promptly in writing whenever a delay in approval by a governmental agency is anticipated or experienced, and to inform COUNTY the Contract Administrator of all facts and details related to the delay.

6. Article 5, Compensation and Method of Payment, Section 5.1 is hereby amended to read as follows (original underlining omitted):

5.1 AMOUNT AND METHOD OF COMPENSATION

5.1.1 Maximum Amount Not-To-Exceed Compensation

~~COUNTY agrees to pay CONSULTANT, as compensation for performance of all services as related to Exhibit "A," required under the terms of this Agreement, as follows: Salary Costs as described in Section 5.2 up to a maximum amount not to exceed of \$4,900,230 for Basic Services related to Tasks 1 – 4, up to \$350,000 for Optional Services related to Task 5, and to reimburse CONSULTANT for Reimbursables as described in Section 5.3, up to a maximum amount not to exceed of \$46,000. The method of compensation shall be that of "maximum amount not to exceed," which means CONSULTANT shall perform all services set forth herein for total compensation in the amount of or less than that stated above.~~

Compensation to CONSULTANT for the performance of the services 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 \$5,577,300 for Basic Services related to Tasks 1 – 4. CONSULTANT 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.

5.1.2 Lump Sum Compensation

[Intentionally Left Blank.]

~~5.1.3 If the method of compensation between COUNTY and CONSULTANT is a maximum amount not to exceed and CONSULTANT has "lump sum" agreements with any Subconsultant(s), then CONSULTANT shall bill all "lump sum" Subconsultant fees as Salary Costs with no "markup." CONSULTANT shall bill all other Subconsultant fees using the employee categories for Salary Costs on Exhibit "B" as defined in Section 5.2 and Reimbursables defined in Section 5.3. All Subconsultant Reimbursables shall be billed in the actual amount paid by CONSULTANT. Subconsultant Salary Costs shall be billed to COUNTY in the actual amount paid by CONSULTANT.~~

5.1.3 Optional Services

COUNTY has established an amount of \$350,000 for potential Optional Services related to Task 5 of Exhibit "A," which may be utilized pursuant to Article 6. Unused amounts of these Optional Services monies shall be retained by COUNTY. A Work Authorization for Optional Services shall specify the method of payment, Maximum Amount Not-To-Exceed, Lump Sum, or combination thereof, applicable to that Work Authorization.

5.1.4 Reimbursable Expenses

COUNTY has established a maximum amount not-to-exceed of \$46,000 for potential reimbursable expenses which may be utilized pursuant to Section 5.3. Unused amounts of those monies established for reimbursable expenses shall be retained by COUNTY.

5.1.5 Salary Rate

The maximum hourly rates payable by COUNTY for each of CONSULTANT's employee categories are shown on Exhibit "B" and are further described in Section 5.2.

If, for services designated as payable on a Maximum Amount Not-To-Exceed, CONSULTANT has "lump sum" agreements with any subconsultant(s), then CONSULTANT shall bill all "lump sum" subconsultant fees with no "markup." Likewise, CONSULTANT shall bill, with no mark-up, all maximum not to exceed subconsultant fees using the employee categories for Salary Costs on Exhibit "B" as

defined in Section 5.2 and Reimbursables defined in Section 5.3. All subconsultant fees shall be billed in the actual amount paid by CONSULTANT.

5.1.6 The dollar limitation set forth in Sections 5.1 is a limitation upon, and describes the maximum extent of, COUNTY's obligation to CONSULTANT, but does not constitute a limitation, of any sort, upon CONSULTANT's obligation to incur such expenses in the performance of services hereunder.

7. Article 5, Compensation and Method of Payment, Section 5.2, is hereby deleted and replaced with the following:

5.2 SALARY COSTS

The term Salary Costs as used herein shall mean the hourly rate actually paid to all personnel engaged directly on the Project, as adjusted by an overall multiplier which consists of the following: 1) a fringe benefits factor; 2) an overhead factor; and 3) an operating margin as set forth on Exhibit "B." Said Salary Costs are to be used only for time directly attributable to the Project. The fringe benefit and overhead factors shall be certified by an independent Certified Public Accountant in accordance with the Federal Acquisition Regulation ("FAR") guidelines. Said certification shall be dated within one hundred eighty (180) days after CONSULTANT's most recently completed fiscal year.

5.2.1 CONSULTANT shall require all of its subconsultants to comply with the requirements of Section 5.2.

5.2.2 Salary Costs for CONSULTANT and subconsultants as shown in Exhibit "B" are the Maximum Billing Rates which are provisional, subject to audit of actual costs, and if the audit discloses that the actual costs are less than the costs set forth on Exhibit "B" for the CONSULTANT or any subconsultant, the CONSULTANT shall reimburse the COUNTY based upon the actual costs determined by the audit.

5.2.3 Unless otherwise noted, the Salary Costs stated above are based upon the CONSULTANT's "home office" rates. Should it become appropriate during the course of the agreement that a "field office" rate be applied, then it is incumbent upon the CONSULTANT to submit a supplemental Exhibit "B" reflective of such rates for approval by Contract Administrator and invoice the COUNTY accordingly.

- 5.2.4 The total hours payable by the COUNTY for any "exempt" or "non-exempt" personnel shall not exceed forty (40) hours per employee in any week. In the event the work requires the CONSULTANT's or subconsultant's personnel to work in excess of 40 hours per week, any additional hours must be authorized in advance, in writing, by the Contract Administrator. If approved, Salary Costs for additional hours of service provided by nonexempt (hourly) employees or exempt (salaried) employees shall be invoiced to the COUNTY at no more than one and one half of the employee's hourly rate and in a manner consistent with the CONSULTANT's or subconsultant's applicable certified FAR audit and all other provisions of Section 5.2. In the event a "Safe Harbor" rate is elected for use by CONSULTANT or subconsultant then the additional hours are payable at no more than the employee's regular rate.
- 5.2.5 CONSULTANT and any of its subconsultants may alternatively use a "Safe Harbor" combined fringe benefit and overhead rate of 110% in lieu of providing fringe benefit and overhead cost factors certified by an independent Certified Public Accountant in accordance with the Federal Acquisition Regulation ("FAR") guidelines. The Safe Harbor rate, once elected, shall remain in place for the entire term of the Agreement, and be applicable for use as "home" and "field" fringe benefit and overhead rates, if applicable, and shall not be subject to audit under this Agreement. All other provisions of Section 5.2 remain in place.
- 5.2.6 Notwithstanding the Salary Costs (formula and requirements) set forth in Section 5.2 above, hourly rates have been negotiated with CONSULTANT utilizing a method and factors agreed to by CONSULTANT and the Contract Administrator which do not comply with Section 5.2. The method and factors utilized to determine the hourly rates are set forth on Exhibit "B," attached hereto.
- 5.2.7 The maximum hourly rates shown on Exhibit "B" are subject to change annually beginning on the first anniversary of the contract execution date and on each contract year thereafter upon written request thirty (30) days prior to the anniversary date by CONSULTANT and approval by the Contract Administrator. Any increase in these rates shall be limited to the lesser of the change in cost of living or three percent (3%). The increase or decrease in CPI shall be calculated as follows: the difference of CPI current period less CPI previous period, divided by CPI previous period, times 100. The CPI current period shall mean the most recent published monthly index prior to contract anniversary. The CPI previous period shall mean for the same month of the prior year. All CPI indices shall be obtained from the U.S. Department of Labor table for Consumer

Price Index - All Urban Consumers (Series ID CUURA320SA0) for the area of Miami-Fort Lauderdale, FL (All Items), with a base period of 1982-84 = 100. Any changes to the hourly rates shall be set forth on an amended Exhibit "B" executed by the Contract Administrator and the CONSULTANT.

8. Article 5, Compensation and Method of Payment, Section 5.3, Reimbursables, is hereby amended to read as follows (original underlining omitted):

5.3 REIMBURSABLES

5.3.1 In accordance with and pursuant to the Broward County Procurement Code, direct nonsalary expenses, entitled Reimbursables, directly attributable to the Project will, and as not otherwise specified in Exhibit "A," may be charged at actual cost with prior written approval by the Contract Administrator, and shall be limited to the following:

- a) ~~Identifiable~~ ~~Transportation expenses in connection with the Project, subject to the limitations of Section 112.061, Florida Statutes. Transportation expenses,~~ to locations outside the Miami-Dade/Broward/Palm Beach County area or from locations outside the Miami-Dade/Broward/Palm Beach County area ~~will not be reimbursed unless specifically pre-authorized in writing by the Contract Administrator.~~
- b) ~~Identifiable~~ ~~p~~Per diem, meals and lodgings, taxi fares and miscellaneous travel-connected expenses for CONSULTANT's personnel subject to the limitations of Section 112.061, Florida Statutes. Meals for class C travel inside Broward County will not be reimbursed. Meals and lodging expenses will not be reimbursed for temporarily relocating CONSULTANT's employees from one of CONSULTANT's offices to another office if the employee is relocated for more than ten (10) consecutive working days. ~~Lodging will be reimbursed only for room rates equivalent to Holiday Inn, Howard Johnson, or Ramada Inn.~~
- e) ~~Identifiable communication expenses approved by Contract Administrator, long distance telephone, courier and express mail between CONSULTANT's various permanent offices. CONSULTANT's field office at the Project site is not considered a permanent office.~~

- d)c) Cost of printing, reproduction, or photography ~~which is required by or of CONSULTANT to deliver services set forth in this Agreement.~~
- e)d) Identifiable ~~Testing~~ costs approved ~~by Contract Administrator.~~
- f)e) All permit fees paid to regulatory agencies for ~~approvals directly attributable to the Project. These permit fees do not include, excluding~~ those permits required for the construction ~~Contractor.~~

Reimbursable ~~S~~subconsultant expenses are limited to the items described above when the ~~S~~subconsultant agreement provides for reimbursable expenses.

~~5.3.2 It is acknowledged and agreed to by CONSULTANT that the dollar limitation set forth in Section 5.1 is a limitation upon, and describes the maximum extent of, COUNTY's obligation to reimburse CONSULTANT for direct, nonsalary expenses, but does not constitute a limitation, of any sort, upon CONSULTANT's obligation to incur such expenses in the performance of services hereunder. If COUNTY or Contract Administrator requests CONSULTANT to incur expenses not contemplated in the amount for Reimbursables, CONSULTANT shall notify Contract Administrator in writing before incurring such expenses. Any such expenses shall be reviewed and approved by COUNTY prior to incurring such expenses.~~

9. Article 6, Optional and Additional Services; Changes in Scope of Services, Sections 6.3 and 6.5 are hereby amended to read as follows:

6.3 In the event a dispute between the Contract Administrator and CONSULTANT arises over whether requested services constitute additional services and such dispute cannot be resolved by the Contract Administrator and CONSULTANT, such dispute shall be promptly presented to COUNTY's Director of Purchasing for resolution. The Director's decision shall be final and binding on the parties. The resolution shall be set forth in a written document in accordance with Section 6.1 above, if applicable. During the pendency of any dispute, CONSULTANT shall promptly perform the disputed services.

6.5 As provided in Section 9.2, each proposed contract modification request that, by itself or aggregated with previous modification requests, increases the contract value by ten percent (10%) or more of the initial contract value, ~~whichever is less~~, shall be reviewed by COUNTY for opportunities to include or increase CBE participation. CONSULTANT shall demonstrate good faith

efforts to include CBE participation in change order work and shall report such efforts to the Office of Economic and Small Business Development.

10. Article 8, Insurance, Sections 8.1 through 8.5 are hereby deleted and replaced with the following:

- 8.1 CONSULTANT shall maintain at its sole expense, at all times during the term of this Agreement (unless a different time period is otherwise stated herein), at least the minimum insurance coverage designated in Exhibit "D" in accordance with the terms and conditions stated in this article.
- 8.2 Such policies shall be issued by companies authorized to do business in the State of Florida, with a minimum AM Best financial rating of A-. Coverage shall be provided on forms no more restrictive than the latest edition of the applicable form filed by the Insurance Services Office. CONSULTANT shall name Broward County as an additional insured under the primary and non-contributory Commercial General Liability policy, Business Automobile Liability policy as well as on any Excess Liability policy. The official title of the Certificate Holder is Broward County. This official title shall be used in all insurance documentation.
- 8.3 Within fifteen (15) days of notification of award, CONSULTANT shall provide to COUNTY proof of insurance in the form of Certificate(s) of Insurance and applicable endorsements, Declaration pages, or insurance policies evidencing all insurance required by this article. COUNTY reserves the right to obtain a certified copy of any policies required by the article upon request. Coverage is not to cease and is to remain in force until the COUNTY determines all performance required of CONSULTANT is completed. For Professional Liability Insurance, coverage shall remain in force for two (2) years after the completion of services unless a different time period is stated in Exhibit "D." COUNTY shall be notified of any restriction or cancellation of coverage within thirty (30) days. If any of the insurance coverage will expire prior to the completion of the work, proof of insurance renewal shall be provided to COUNTY upon expiration.
- 8.4 COUNTY reserves the right to review and revise any insurance requirements at the time of renewal or amendment of this Agreement, including, but not limited to, deductibles, limits, coverage, and endorsements.
- 8.5 If CONSULTANT uses a subconsultant or subcontractor, CONSULTANT shall ensure that each subconsultant or subcontractor names "Broward County" as an additional insured under the subconsultant's or subcontractor's Commercial General Liability, Business Automobile Liability, and Excess/Umbrella policies.

11. Article 9, EEO and CBE Compliance, Sections 9.1 through 9.9 are hereby deleted and replaced with the following:

9.1 No party to this Agreement may discriminate on the basis of race, color, sex, religion, national origin, disability, age, marital status, political affiliation, sexual orientation, pregnancy, or gender identity and expression in the performance of this Agreement. CONSULTANT shall comply with all applicable requirements of the COUNTY's CBE Program as established by Broward County Business Opportunity Act of 2012, Section 1-81, Broward County Code of Ordinances (the "Act"), in the award and administration of this Agreement.

CONSULTANT shall include the foregoing or similar language in its contracts with any Subcontractors, except that any project assisted by the U.S. Department of Transportation funds shall comply with the non-discrimination requirements in 49 C.F.R. Parts 23 and 26.

Failure by CONSULTANT to carry out any of the requirements of this section shall constitute a material breach of this Agreement, which shall permit COUNTY to terminate this Agreement or to exercise any other remedy provided under this Agreement, Broward County Code of Ordinances, Broward County Administrative Code, or under other applicable law, all such remedies being cumulative.

9.2 CONSULTANT acknowledges that the Board, acting through the OESBD, may make minor administrative modifications to the CBE Program which shall become applicable to this Agreement if the administrative modifications are not unreasonable. Written notice of any such modification shall be provided to CONSULTANT and shall include a deadline for CONSULTANT to notify COUNTY if CONSULTANT concludes that the modification exceeds the authority of this section of this Agreement. Failure of CONSULTANT to timely notify COUNTY of its conclusion that the modification exceeds such authority shall be deemed acceptance of the modification by CONSULTANT.

COUNTY may add or increase the required participation of CBE firms under this Agreement in connection with any amendment, extension, modification, or change order to this Agreement that, by itself or aggregated with previous amendments, extensions, modifications, or change orders, increases the initial Agreement price by ten percent (10%) or more. CONSULTANT shall make a good faith effort to include CBE firms in work resulting from any such amendment, extension, modification, or change order and shall report such efforts, along with evidence thereof, to the OESBD.

9.3 CONSULTANT will meet the following CBE participation goal by utilizing the CBE firms for the following percentage of Services under this Agreement:

<u>CBE participation goal</u>	<u>25%</u>
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CONSULTANT stipulates that each CBE firm utilized to meet the CBE participation goal must be certified by the OESBD. CONSULTANT shall inform COUNTY immediately when a CBE firm is not able to perform or if CONSULTANT believes the CBE firm should be replaced for any other reason, so that the OESBD may review and verify the good faith efforts of CONSULTANT to substitute the CBE firm with another CBE firm. Whenever a CBE firm is terminated for any reason, including cause, CONSULTANT shall provide written notice to the OESBD and shall substitute another CBE firm in order to maintain the level of CBE participation required herein, unless otherwise provided herein or agreed in writing by the Parties. Such substitution shall not be required in the event the termination results from COUNTY modifying the scope of services and there is no available CBE to perform the new scope of services, in which event CONSULTANT shall notify COUNTY and the OESBD may adjust the CBE participation goal by written notice to CONSULTANT. CONSULTANT may not terminate for convenience a CBE firm without COUNTY's prior written consent, which consent shall not be unreasonably withheld.

- 9.4 In performing the services for this Project, the Parties hereby incorporate the list of CONSULTANT's participating CBE firms, addresses, scope of work, and the percentage of work amounts identified on each Letter of Intent into this Agreement (Exhibit "C"). Promptly upon execution of this Agreement by COUNTY, CONSULTANT shall enter into a formal contract with the CBE firms listed in Exhibit "C" and, upon request, shall provide copies of the contracts to the Contract Administrator and OESBD.
- 9.5 CONSULTANT shall provide written monthly reports to the Contract Administrator attesting to CONSULTANT's compliance with the CBE participation goals stated in this article. In addition, CONSULTANT shall allow COUNTY to engage in on-site reviews to monitor CONSULTANT's progress in achieving and maintaining its contractual and CBE Program obligations. Such review and monitoring shall be by the Contract Administrator in conjunction with the OESBD, unless otherwise determined by the County Administrator. COUNTY shall have access, without limitation, to CONSULTANT's books and records, including payroll records, tax returns and records, and books of account, on five (5) business days' notice.
- 9.6 In the event of CONSULTANT's noncompliance with its CBE participation goal (including without limitation the unexcused reduction of a CBE firm's participation), the affected CBE firm shall have the right to exercise any remedies as may be available as between the CBE firm and the CONSULTANT.

9.7 The presence of a "pay when paid" provision in a CONSULTANT's contract with a CBE firm shall not preclude COUNTY or its representatives from inquiring into allegations of nonpayment.

9.8 By execution of this Agreement, CONSULTANT represents that it has not been placed on the discriminatory vendor list as provided in Section 287.134, Florida Statutes. COUNTY hereby materially relies on such representation in entering into this Agreement. An untrue representation of the foregoing shall entitle COUNTY to terminate this Agreement and recover from CONSULTANT all monies paid by COUNTY pursuant to this Agreement, and may result in debarment from COUNTY's competitive procurement activities.

12. Article 10, Miscellaneous, Section 10.3, Audit Right and Retention of Records, is hereby deleted and replaced with the following:

10.3 AUDIT RIGHTS AND RETENTION OF RECORDS

CONSULTANT shall preserve all Contract Records (as defined below) for a minimum period of three (3) years after expiration or termination of this Agreement or until resolution of any audit findings, whichever is longer. Contract Records shall, upon reasonable notice, be open to COUNTY inspection and subject to audit and reproduction during normal business hours. COUNTY audits and inspections pursuant to this section may be performed by any COUNTY representative (including any outside representative engaged by COUNTY). COUNTY may conduct audits or inspections at any time during the term of this Agreement and for a period of three years after the expiration or termination of the Agreement (or longer if required by law). COUNTY may, without limitation, verify information, payroll distribution, and amounts through interviews, written affirmations, and on-site inspection with CONSULTANT's employees, subconsultants, vendors, or other labor.

Contract Records include any and all information, materials and data of every kind and character, including without limitation, records, books, papers, documents, subscriptions, recordings, agreements, purchase orders, leases, contracts, commitments, arrangements, notes, daily diaries, drawings, receipts, vouchers and memoranda, and any and all other documents that pertain to rights, duties, obligations or performance under this Agreement. Contract Records include hard copy and electronic records, written policies and procedures, time sheets, payroll records and registers, cancelled payroll checks, estimating work sheets, correspondence, invoices and related payment documentation, general ledgers, insurance rebates and dividends, and any other records pertaining

to rights, duties, obligations or performance under this Agreement, whether by CONSULTANT or subconsultants.

COUNTY shall have the right to audit, review, examine, inspect, analyze, and make copies of all Contract Records at a location within Broward County. COUNTY reserves the right to conduct such audit or review at CONSULTANT's place of business, if deemed appropriate by COUNTY, with seventy-two (72) hours' advance notice. CONSULTANT agrees to provide adequate and appropriate work space. CONSULTANT shall provide COUNTY with reasonable access to the CONSULTANT's facilities, and COUNTY shall be allowed to interview all current or former employees to discuss matters pertinent to the performance of this Agreement.

CONSULTANT shall, by written contract, require its subconsultants to agree to the requirements and obligations of this section.

Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for COUNTY's disallowance and recovery of any payment reliant upon such entry. If an audit or inspection in accordance with this section discloses overpricing or overcharges to COUNTY of any nature by the CONSULTANT or its subconsultants in excess of five percent (5%) of the total contract billings reviewed by COUNTY, the reasonable actual cost of the COUNTY's audit shall be reimbursed to the COUNTY by the CONSULTANT in addition to making adjustments for the overcharges. Any adjustments or payments due as a result of such audit or inspection shall be made within thirty (30) days from presentation of COUNTY's findings to CONSULTANT.

13. Article 10, Miscellaneous, Section 10.4, Public Entity Crime Act, is hereby deleted and replaced with the following:

10.4 PUBLIC ENTITY CRIME ACT

CONSULTANT represents that it is familiar with the requirements and prohibitions under the Public Entity Crime Act, Section 287.133, Florida Statutes, and represents that its entry into this Agreement will not violate that Act. In addition to the foregoing, CONSULTANT further represents that there has been no determination that it committed a "public entity crime" as defined by Section 287.133, Florida Statutes, 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. Notwithstanding any provision in this Agreement to the contrary, if any representation stated in this paragraph is false, COUNTY shall have the right to immediately terminate this Agreement and recover all sums paid to CONSULTANT under this Agreement.

14. Article 10, Miscellaneous, Section 10.5 hereby amended to read as follows (original underlining omitted):

10.5 SUBCONSULTANTS

~~10.5.1~~CONSULTANT shall utilize the subconsultants identified in the proposal that were a material part of the selection of CONSULTANT to provide the services for this Project. CONSULTANT shall obtain written approval of Contract Administrator prior to changing or modifying the list of subconsultants submitted by CONSULTANT. Where CONSULTANT's failure to use subconsultant results in CONSULTANT's noncompliance with CBE participation goals, such failure shall entitle the affected CBE firm to damages available under this Agreement and under local and state law. The list of subconsultants is provided on Exhibit C-1, Schedule of Subconsultants, as attached hereto and made a part hereof.

~~10.5.2~~CONSULTANT shall bind in writing each and every approved subconsultant to the terms stated in this Agreement, provided that this provision shall not, in and of itself, impose the insurance requirements set forth in Article 8 on CONSULTANT's subconsultants. ~~CONSULTANT shall be responsible for recommending to the Broward County Risk Management Division the insurance coverages it will require of each of its subconsultants, after taking into consideration the services to be provided by each of its subconsultants. The Broward County Risk Management Division may either (i) accept the recommendation(s) of the CONSULTANT or (ii) require any coverages that the Risk Management Division determines are necessary to protect the COUNTY's interests. CONSULTANT shall require the proper licensing of each of its subconsultants and shall provide the insurance coverage's as finally determined in the sole discretion of the Risk Management Division.~~

15. Article 10, Miscellaneous, Section 10.12, Truth-In-Negotiation Certificate, is hereby deleted and replaced with the following:

10.12 TRUTH-IN-NEGOTIATION CERTIFICATE

CONSULTANT's compensation under this Agreement is based upon representations supplied to COUNTY by CONSULTANT, and CONSULTANT certifies that the information supplied, including without limitation in the negotiation of this Agreement, is accurate, complete, and current at the time of contracting. COUNTY shall be entitled to recover any damages it incurs to the extent such representation is untrue.

16. Article 10, Miscellaneous, Sections 10.17, 10.26, and 10.27 are hereby amended to read as follows (original underlining omitted):

10.17 INDEPENDENT CONTRACTOR

CONSULTANT is an independent contractor under this Agreement. Services provided by CONSULTANT shall be subject to the supervision of CONSULTANT. In providing the services, CONSULTANT or its agents shall not be acting and shall not be deemed as acting as officers, employees, or agents of COUNTY, except as authorized by the Contract Administrator for permitting, licensing, or other regulatory requirements.

10.26 LAW, JURISDICTION, VENUE, WAIVER OF JURY TRIAL

This Agreement shall be interpreted and construed in accordance with and governed by the laws of the state of Florida. All parties agree acknowledge and accept that jurisdiction of any controversies or legal problems arising out of this Agreement, and any action involving the enforcement or interpretation of any rights hereunder, shall be exclusively in the state courts of the Seventeenth Judicial Circuit in Broward County, Florida, and venue for litigation arising out of this Agreement shall be exclusively in such state courts, forsaking any other jurisdiction which either party may claim by virtue of its residency or other jurisdictional device. **BY ENTERING INTO THIS AGREEMENT, CONSULTANT AND COUNTY HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT. IF A PARTY FAILS TO WITHDRAW A REQUEST FOR A JURY TRIAL IN A LAWSUIT ARISING OUT OF THIS AGREEMENT AFTER WRITTEN NOTICE BY THE OTHER PARTY OF VIOLATION OF THIS SECTION, THE PARTY MAKING THE REQUEST FOR JURY TRIAL SHALL BE LIABLE FOR THE REASONABLE ATTORNEYS' FEES AND COSTS OF THE OTHER PARTY IN CONTESTING THE REQUEST FOR JURY TRIAL, AND SUCH AMOUNTS SHALL BE AWARDED BY THE COURT IN ADJUDICATING THE MOTION.**

10.27 INCORPORATION BY REFERENCE

The attached Exhibits A, B, C, ~~and C-1~~, and D are incorporated into and made a part of this Agreement.

17. A new section, titled "Public Records" and numbered 10.33, is hereby created and made part of the amended Agreement to read as follows:

10.33 PUBLIC RECORDS

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

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

10.33.2 Provide 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;

10.33.3 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; and

10.33.4 Meet all requirements for retaining public records and transfer to COUNTY, at no cost, all public records in its possession upon termination of the applicable contract and destroy any duplicate public records that are exempt or confidential and exempt. All records stored electronically must be provided to COUNTY in a format that is compatible with the information technology systems of COUNTY.

The failure of CONSULTANT 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.

18. A new Exhibit "D," Insurance Requirements, as referenced in amended Article 8, Sections 8.1 and 8.3, is attached hereto and incorporated herein.

19. Preparation of this First Amendment has been a joint effort of COUNTY and CONSULTANT, and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than any other.

20. Except to the extent modified herein, the Agreement shall remain in full force and effect. In the event of a conflict between the terms and conditions of this First Amendment and the terms and conditions set forth in the Agreement and prior Amendments, the Parties hereby agree that this document shall control.

21. This First Amendment to the Agreement shall be effective upon execution by the Parties, and may be fully executed in multiple copies by all parties, each of which, bearing original signatures, shall have the force and effect of an original document.

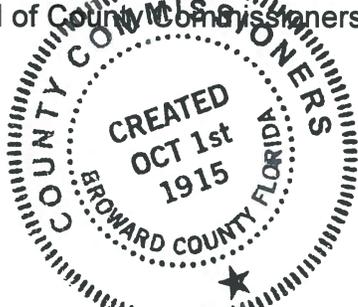
IN WITNESS WHEREOF, the Parties hereto have made and executed this First Amendment to the Agreement: BROWARD COUNTY, through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Vice-Mayor, authorized to execute same by Board action on the 2nd day of February, 2016, and HAZEN AND SAWYER, P.C., signing by and through its Vice President, duly authorized to execute same.

COUNTY

ATTEST:

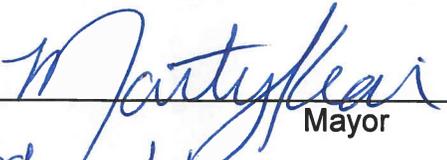


Broward County Administrator, as
Ex-Officio Clerk of the Broward County
Board of County Commissioners



Insurance requirements
approved by Broward County
Risk Management Division

BROWARD COUNTY, by and through
its Board of County Commissioners

By 

Mayor
2nd day of February, 2016

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

By 

Signature (Date) 12/4/15
Risk Management Division

Print Name and Title above
Risk Insurance and
Contracts Manager

By 

Al A. DiCalvo (Date) 12/9/15
Assistant County Attorney



Michael J. Kerr
Deputy County Attorney

AAD
9/22/15; 10/27/15; 11/30/15
Hazen&Sawyer-NRWWTPCapacityImprov(RLI-R0999201R1)-Amend 1_v3Final-113015.am1
File #12-077.06

FIRST AMENDMENT TO AGREEMENT BETWEEN BROWARD COUNTY AND HAZEN AND SAWYER, P.C., FOR CONSULTANT SERVICES FOR NORTH REGIONAL WASTEWATER TREATMENT PLANT - CAPACITY IMPROVEMENTS, RLI# R0999201R1

CONSULTANT

ATTEST:

HAZEN AND SAWYER, P.C.



Secretary

Patrick A. Davis, P.E.

(Please Type Name of Secretary)

By 

President or Vice President

Robert B. Taylor, Jr., P.E./Vice President

(Please Type Name and Title)

CORPORATE SEAL



OR

WITNESSES:

30th day of November, 2015.

Signature

Print/Type Name

Signature

Print/Type Name

EXHIBIT D
Minimum Insurance Requirements

Commercial General Liability Insurance

Combined single limit for bodily injury and property damage:
\$1,000,000.00 (One Million Dollars) minimum limits per occurrence
\$2,000,000.00 (Two Million Dollars) minimum limits per aggregate

Business Automobile Liability Insurance

Combined single limit for bodily injury and property damage:
\$1,000,000.00 (One Million Dollars) minimum limits per occurred

Workers' Compensation Insurance

In compliance with state statutes and all federal laws
Operations in Florida comply with Chapter 440 FSS as amended

Employer's Liability Insurance

\$500,000.00 (Five Hundred Thousand Dollars) minimum limits each accident

Professional Liability Insurance

\$2,000,000.00 (Two Million Dollars) minimum limits each claim
\$2,000,000.00 (Two Million Dollars) minimum limits per aggregate



Version 5
BOARD OF COUNTY COMMISSIONERS
 Broward County, Florida
 www.broward.org

SC 120 WED0610150000000023
 EXHIBIT 3
 The above number must be shown on all Invoices and References

Invoice and copy of purchase

Billing Location:

WATER AND WASTEWATER SERVICES

Ship To:

WATER AND WASTEWATER SERVICES
 2555 W COPANS ROAD
 (954) 831-0792 NADJA HORTON
 POMPANO BEACH, FL 33069

Date: 02/04/16 2555 W. Copans Road
 Pompano Beach, FL 33069

VC0000005519
 HAZEN & SAWYER,PC
 4000 HOLLYWOOD BLVD STE 750 NORTH
 HOLLYWOOD, FL 33021

Delivery Due Date: 08/31/18
 FOB Dest, Freight Prepaid

Contact:
 Oscar Agar

954-831-0983

RECEIVED
HAZEN AND SAWYER
 Hollywood, Florida

FEB 10 2016

JOB No. 44104-001

Vendor LAUREN N. ORMEROD
Contact: 954-987-0066

This Purchase Order is being issued as per all terms and conditions contained in the agreement with Hazen and Sawyer, P.C. for NRWWTP Capacity Improvements for WWS. Approved by the BOCC on August 13, 2013, Item# 53.

Project Manager: Oscar Asgars, 954-831-0983

Line	Quantity	Unit	Commodity Code/Description	Unit Price	Extended Price
1			92535 Environmental Engineering Maximum not-to-exceed of \$5,250,230 (Tasks 1 - 5) and reimbursables not-to-exceed \$46,000, for a total agreement amount of \$5,296,230 with a time for performance of 1,800 non-consecutive calendar days from the Notice to Proceed RQS 126 WED12151100000000037		5,296,230.00
2			92535 Environmental Engineering Project 9195 NRWWTP Facility Improvements Amendment 1 for \$677,070. RQS 126 WED12241500000000042		677,070.00

Florida Sales Tax Exemption Number - 85-8013924140C-7
 Federal Tax Exemption Number - 59-6000531

IMPORTANT: NO C.O.D.'S OR COLLECT SHIPMENTS WILL BE ACCEPTED.

AMY ALMANZAR

Digitally signed by AMY ALMANZAR
 Date: 2016.02.04 13:17:04 -05'00'

APPROVED

AUTHORIZED SIGNATURE

DATE



Version 5
BOARD OF COUNTY COMMISSIONERS
Broward County, Florida
www.broward.org

SC 120 WED0810130000000023
 EXHIBIT 3
 The above number must be shown
 on all Invoices and References

Procurement Folder #	999201	Contract #		Total Cost	5,973,300.00
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For inquiry regarding payment please call the Broward County Accounting Division 954-357-7193. To help expedite payment please include a copy of this purchase order with your invoice.

PROPER INVOICE

The Florida Prompt Payment Act provides that the County may set forth the requirements for an invoice to be a proper invoice. The requirements of a proper invoice shall be as set forth in the agreement or contract governing the purchase; however, in addition, no invoice submitted by a vendor shall be considered a proper invoice unless the invoice is an original invoice, is delivered to the County in accordance with the purchase order, and sets forth the following and additional information: a) The invoice shall set forth the County purchase order number, and the invoice shall correlate to the County purchase order number under which the purchase was made; and b) The invoice shall set forth the name of the business organization that is recited in the County purchase order; and c) The invoice shall set forth the date of its preparation; and d) The invoice shall set forth an identifying number to facilitate identification of the invoice; and e) The invoice shall set forth the vendor's federal identification number; and f) The invoice shall set forth a description of the goods or services or property provided to the County; and g) The invoice shall set forth the County's part or item number for each item or part delivered; and h) The invoice shall set forth the delivery terms set forth within the County purchase order; and i) The invoice shall set forth the location and date of delivery of the goods or services or property to the County; and j) The invoice shall set forth the quantity of the goods or services or property provided to the County; and k) The invoice shall set forth the unit price of the goods or services or property provided to the County; and l) The invoice shall set forth the extended total price of the goods or services or property provided to the County; and m) The invoice shall set forth applicable discounts.

Florida Sales Tax Exemption Number - 85-8013924140C-7
 Federal Tax Exemption Number - 59-6000531

IMPORTANT: NO C.O.D.'S OR COLLECT SHIPMENTS WILL BE ACCEPTED.

AMY ALMANZAR
 Digitally signed by AMY ALMANZAR
 Date: 2016.02.04 13:17:13 -05'00'

APPROVED

AUTHORIZED SIGNATURE

DATE