



City of Pompano Beach
Department of Development Services
Building Inspections Division

100 W. Atlantic Blvd Pompano Beach, FL 33060
Phone: 954.786.4669 Fax: 954.786.4677

CHANGE OF ARCHITECT | ENGINEER

Permit No(s): BP23 - 00000794 Date:
Job Address: 1505 North Riverside Drive Pompano Beach, FL 33062 (Zip Code)
Project Name: Intracoastal Towers
Description of Work: Concrete Restoration, waterproofing, painting
Owner's | Agent's Name: David Barbour Phone No: 954-609-9101
Owner's Address: 1505 North Riverside Drive City: Pompano Beach, State: FL (Zip Code) 33062
Owner's Email: dave@redoaksshutter.com

- 1. A successor registered architect or professional engineer seeking to reuse already sealed contract documents...
2. A successor registered architect or professional engineer must use his own title block, seal and signature...
3. Prior to sealing, signing and dating work, a successor registered architect or professional engineer shall be required to notify the original registered architect or professional engineer...

Current Architect-of-Record
Name: Lic No:
Firm Name:
Address:
City: State: Zip Code:
Phone No: Email:

Current Engineer-of-Record
Name: Stanley R. Swaysland Lic No: PE29241
Firm Name: Swaysland Engineering
Address: 2890 Marina Mile Blvd
City: Fort Lauderdale State: FL Zip Code: 33312
Phone No: 954-473-0043 Email: stan@swaysland.com

Check all that apply:
Arch Civil Struct Mech Elect Plumb

Check all that apply:
Arch Civil Struct Mech Elect Plumb

Successor Architect-of-Record
Name: Lic No:
Firm Name:
Address:
City: State: Zip Code:
Phone No: Email:

Successor Engineer-of-Record
Name: Charles Stanley Long Lic No: 87396
Firm Name: Marcon Forensics & Engineering
Address: 6401 Times Square Avenue, Suite A-1
City: Orlando State: FL Zip Code: 32835
Phone No: 561-460-8377 Email: charles@marconforensics.com

Check all that apply:
Arch Civil Struct Mech Elect Plumb

Check all that apply:
Arch Civil Struct Mech Elect Plumb

HOLD HARMLESS STATEMENT

I agree to hold the City of Pompano Beach, its employees, agents and authorized personnel, harmless and relieve them from any responsibility or liability for any legal action or damage, cost or expense, including but not limited to attorney's fees resulting from the processing of any of the foregoing requests...

X David R. Barbour Signature of Property Owner or Agent

X Charles S. Long Signature of Architect or Engineer

STATE OF Florida COUNTY OF Broward

STATE OF Florida COUNTY OF Miami-Dade

The foregoing instrument was acknowledged before me, by means of physical presence or online notarization this 14 day of October 2024 by: David R. Barbour

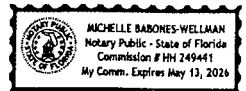
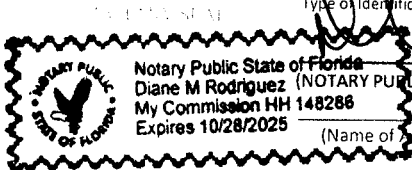
The foregoing instrument was acknowledged before me, by means of online notarization this 11th day of October 2024 by: Charles Stanley Long

who is Personally Known or Produced Identification

who is Personally Known or Produced Identification

Type of Identification Produced

Type of Identification Produced



(Name of Acknowledger Typed, Printed or Stamped)

(Name of Acknowledger Typed, Printed or Stamped)

MARCON

FORENSICS & ENGINEERING

September 23, 2024

Dave Barbour – Board President
Intracoastal Tower Condominium Association
1505 N Riverside Drive
Pompano Beach, FL 33062
Email: dave@redoaksshutter.com

Re: Roof Engineering Services

Dear Mr. Barbour

Marcon Forensics, LLC ("MARCON", "Consultant") appreciates the opportunity to provide a proposal for Intracoastal Tower Condominium Association ("Client," "Association") with engineering services for Roof Project ("Project") at Intracoastal Tower ("Property," "Building") located at 1505 North Riverside Drive. We based our proposal on information provided by the Association and the scope of work necessary.

PROJECT DESCRIPTION

Marcon will provide bid, specification, and submittal review services for the reroofing project. Marcon will ensure that all roof installations are completed in accordance with the manufacturer's guidelines to guarantee warranty compliance. Additionally, Marcon will oversee the process to ensure all Special Inspector ("SI") reports are completed in line with local codes and standards, ensuring that the reroofing project meets all regulatory requirements by the manufacturer and the City of Pompano Beach.

SCOPE OF SERVICES

Phase 1: Bid Evaluation Services

Hourly

1. Meet with the Association to discuss project logistics (not to exceed 4 hours).
2. Coordinate and attend pre-bid meetings on the property and respond to the bidder's questions or requests for information.
3. Review and evaluate submitted bids
4. Contact provided bidder references.
5. Provide a bidder evaluation and recommendation to the board.

Phase 2: Construction Administration

HNTE \$8,950.00/Month

1. MARCON will provide inspection services (to include special inspector "SI" inspections/reports if required) during the duration of the Roof Project.
2. MARCON will attend bi-weekly progress meetings with the project team (contractor and board representatives) and follow up with meeting minutes.
3. MARCON will respond to the Building Department's permit review comments.
4. MARCON will observe the contractor's work in progress and keep records thereof.

5. MARCON will perform periodic onsite observations to verify that the contractor is performing work-in-progress according to the project documents, repair protocols, applicable codes, manufacturer's installation instructions, and industry standards.
6. MARCON will review the contractor's requests for payments for quantities and quality of materials installed.
7. MARCON will review product submittals and shop drawings and respond to requests for information (RFI) during the construction phase.
8. MARCON will review Requests for Changes (RFC), Change Orders (CO), Payment Applications, and other out-of-scope conditions.
9. MARCON will facilitate the close-out of the project and issue a final letter of project completion.
10. MARCON will assist with any work that may be required for supplemental repairs for issues discovered during repairs or corrections made necessary by the repair contractor's work. This will include but not necessarily be limited to research, repair sketches, and coordination with the Building Department for such supplemental repairs during construction.
11. MARCON will notify the Association in writing of any act or omission by any party of which MARCON becomes aware and recognizes as threatening or causing harm to the property or the interests of the association.

Contract Exclusions:

The following are excluded from the scope of work and can be completed at an hourly rate with written authorization from the Client:

1. Any item not described in the Scope of Services.
2. Removal of finishes, material sampling, laboratory testing, or field testing, other than that specified above
3. Any work that may be required for supplemental repairs for issues discovered during repairs or corrections made necessary by the repair Contractor's work (billed hourly per Marcon's Hourly Schedule). This will include but not necessarily be limited to research, repair sketches, and coordination with the Building Department for such supplemental repairs during construction.
4. Facilitation of resolution of construction conflicts.

[END OF SCOPE OF SERVICES]

Fee and Schedule of Payment

Project Phase	Fee
Phase II: Bid Documentation and Bid Services	
Hourly	TBD
Phase III – Construction Administration	
Hourly-Not-To-Exceed per Month	\$8,950

Should additional services be required by you or by circumstances beyond our control, we will, upon your authorization, invoice you in accordance with our standard fee schedule provided in Appendix B.

Please note that this Proposal shall become null and void if not executed within 30 days of the date listed herein.

IN WITNESS WHEREOF, the parties hereto have accepted, made and executed this agreement upon the terms, conditions, and provisions above stated and attached herewith, the day, month, and year noted herein.

David R. Barber
Signature

David R. Barber
Name

President
Title

Intracoastal Tower Condo
Company

10/11/2024
Date

Jholyn Gutierrez
Digitally signed by Jholyn Gutierrez
DN: cn=US,
E=jholyn@marconforensics.com,
CN=Jholyn Gutierrez
Date: 2024.09.23 15:21 23-04'00'

CONSULTANT (Jholyn Gutierrez)

09/23/2024

Date

APPENDIX "A"

AGREEMENT BETWEEN CLIENT AND CONSULTANT

ARTICLE 1 - DEFINITIONS

1.1 CLIENT

1.1.1 The term "CLIENT" as it appears hereinafter is defined as the business entity known as **Gatherings Intracoastal Tower Condominium Association**.

1.2 CONSULTANT

1.2.1 The term "CONSULTANT" as it appears hereinafter refers to the business entity **Marcon Forensics, LLC**, its Principal Engineer and Managing Member, Felix Martin, and all associated employees and representatives of the company.

1.3 PROJECT

1.3.1 The term "PROJECT" as it appears hereinafter refers to **Intracoastal Tower**, in Pompano Beach, Florida, for which CONSULTANT's services are being retained.

ARTICLE 2 - CONSULTANT'S RESPONSIBILITY

2.1 CONSULTANT'S SCOPE OF SERVICES

2.1.1 CONSULTANT's basic services include forensic inspections, document review, studies, research, testing investigation and analysis of structures for the purpose of identification of defective construction, insurance claims, litigation support, expert witness testimony, and recertification.

2.1.2 CONSULTANT's basic services shall NOT include:

- Demolition or repair work generally performed by a licensed General Contractor
- Quantity or cost estimates for repair to the Project.
- Recommendations and opinions concerning matters not commonly associated with the disciplines of Engineering or Architecture.

2.1.3 CONSULTANT's services shall be performed as expeditiously as is consistent with standards of skill and care normal to the professional community.

2.1.4 CONSULTANT's scope of services included in this AGREEMENT shall be limited to and as described in CONSULTANT's "**PROPOSAL FOR ENGINEERING SCOPE OF SERVICES**" incorporated by reference.

2.1.5 CONSULTANT shall determine the manner in which those services are to be performed. CONSULTANT retains the right to staff the work on the PROJECT with adequate manpower at the sole discretion of the CONSULTANT for the purpose defined by the CONSULTANT's "**PROPOSAL FOR SCOPE OF ENGINEERING SERVICES**".

2.1.6 CONSULTANT has the discretion to hire at CONSULTANT's expense independent contractors to serve as experts and/or consultants or contractors to complete its tasks on behalf of CONSULTANT and pursuant to this AGREEMENT, and as limited by the "**PROPOSAL FOR ENGINEERING SCOPE OF SERVICES**". All of CONSULTANT's sub-consultants shall be properly licensed to perform all Services

relative to this Agreement. CONSULTANT shall be responsible to CLIENT for the acts and omissions of its employees, sub-consultants and their respective employees that perform any of the Services under this Agreement. The CONSULTANT and its sub-consultant(s) shall perform without expense to the CLIENT, such professional services as may be required to correct or remedy any negligent act, error or omission of the CONSULTANT or its sub-consultants. Independent contractors may only be retained with the express written approval of the CLIENT. Payments maybe withheld for CONSULTANT's failure to perform its obligations in accordance with this AGREEMENT.

2.2 COMMUNICATION AND COORDINATION OF WORK

- 2.2.1 CONSULTANT agrees to make reasonable efforts to communicate and coordinate work in a timely fashion with other independent Consultants or General Contractors retained by the CLIENT for the same PROJECT.
- 2.2.2 CONSULTANT shall not be held responsible for delays to work which are dependent upon timely performance of other independent parties retained by the CLIENT.
- 2.2.3 CONSULTANT will maintain confidence with matters relating to the progress of the investigations and all work performed on the PROJECT until completion of services.

2.3 PROFESSIONAL OPINION

- 2.3.1 CONSULTANT agrees to provide only CONSULTANT's best professional opinion, regardless of case status or other parties' interests, and consistent with standards of skill and care normal to the professional community. CONSULTANT's field visits or observation of portions of the work shall be conducted solely to determine in general if the work is being performed in a manner indicating that, when completed, the work will be in general conformance with the designer's intent and such periodic site visits, or observations shall not relieve other parties from their responsibility for performing their work in accordance with applicable plans and specifications.
- 2.3.2 The expert opinions offered by CONSULTANT or by any of its outside consultants are based on valid and reliable visual inspections of the PROJECT's building components and appurtenances. CONSULTANT does not guarantee all existing deficiencies will be identified and reported, but instead CONSULTANT intends to present its conclusions and opinions based on conditions actually observed and analyzed within the "**PROPOSAL FOR ENGINEERING SCOPE OF SERVICES**". In the event that conditions are uncovered that could not reasonably have been anticipated by CONSULTANT in the absence of exploratory testing, then CONSULTANT and/or its consultants shall be compensated on an additional services basis for professional services necessitated by said unanticipated conditions. In addition, CLIENT recognizes that existing conditions can vary from those assumed by CONSULTANT and that, in spite of the use of due professional

care, the limitation on available data results in some level of uncertainty with respect to the interpretation of these conditions

2.3.3 CLIENT and CONSULTANT agree that the "**PROPOSAL FOR ENGINEERING SCOPE OF SERVICES**" represents the agreed scope of work as defined by CLIENT to be performed by CONSULTANT under this AGREEMENT.

2.3.4 Nothing in this AGREEMENT as well as anything in CONSULTANT's services for CLIENT will be construed as a promise or guarantee as to the outcome of CLIENT's matter. CLIENT and CONSULTANT agree that CONSULTANT's compensation for services rendered in connection with this AGREEMENT is not determined by and in no way contingent upon whether CONSULTANT's opinions, conclusions or testimony are favorable to CLIENT's position. CLIENT must expect that CONSULTANT's opinions may be adverse to CLIENT's interests.

2.4 FILE RETENTION

2.4.1 Upon conclusion of CONSULTANT's services, all writing, documents, or other materials contained within CONSULTANT's files shall be placed in storage for a period not longer than five (5) years, after which time the files will be destroyed. Should CLIENT require different handling of the files, written request shall be made at the time of the conclusion of CONSULTANT's services.

ARTICLE 3 - CLIENT'S RESPONSIBILITIES

3.1 TIME REQUIREMENTS

3.1.1 CLIENT shall advise CONSULTANT in writing of all applicable time requirements, including court-imposed deadlines, and of their significance as a condition precedent to the performance of services under this AGREEMENT. CLIENT shall have the continuing responsibility to advise CONSULTANT of all applicable time requirements throughout the course of CONSULTANT's retention in this matter.

3.1.2 CLIENT agrees to provide CONSULTANT with all available documents, plans, drawings, materials, samples, or recorded data relevant to CONSULTANT's investigation, evaluation, and scope of work, or authorize CONSULTANT to perform a search for those documents. Material search, handling, and storage are subject to fees and costs. Fees and costs will be governed by CONSULTANT's Service Rate Schedule incorporated by reference and attached hereto as APPENDIX B.

3.2 HAZARDOUS MATERIALS

3.2.1 The CLIENT acknowledges that CONSULTANT 's scope of services does not include any services related to the presence of any hazardous or toxic materials including, but not limited to, asbestos, toxic or hazardous waste, PCB's, combustible gases and materials, petroleum, or radioactive materials. In the event any hazardous or toxic materials are present on or about the job site or any adjacent areas that may affect the performance of CONSULTANT 's services, CONSULTANT may, at its option and without liability for consequential or other

damages, suspend performance of its services under the AGREEMENT until CLIENT retains appropriate consultants or contractors to identify and abate or remove the hazardous or toxic materials in full compliance with all applicable laws and regulations. CLIENT shall indemnify, hold harmless and defend CONSULTANT and its employees and consultants from any claims, causes of action, costs or expenses, including fees, arising out of or relating to the presence of hazardous materials on the project.

3.3 PAYMENT FOR SERVICES

- 3.3.1 CLIENT agrees to pay CONSULTANT for the services listed under CONSULTANT's "**PROPOSAL FOR ENGINEERING SCOPE OF SERVICES**" as described in CONSULTANT's "**COMPENSATION**" incorporated by reference. Travel expenses and services beyond those listed under the "**PROPOSAL FOR ENGINEERING SCOPE OF SERVICES**" work shall be billed based on CONSULTANT's "**Service Rate Schedule**" incorporated by reference and attached hereto as APPENDIX B.
- 3.3.2 CLIENT agrees that all invoices are to be paid to CONSULTANT's business office, located at **1278 Glenneyre Street, Suite 247, Laguna Beach, California 92651**. Payment shall be made no later than sixty (60) days after the invoice date. Payment by the 60th day is a condition for continuing work. Delinquency in CLIENT's payment to CONSULTANT on any given case and/or job for which CONSULTANT is performing services on CLIENT's behalf will give CONSULTANT the right to suspend its services for CLIENT with respect to all cases and/or jobs wherein CONSULTANT is performing services on CLIENT'S behalf.
- 3.3.3 CLIENT is solely responsible for payment of the fees and costs generated by CONSULTANT for its services rendered pursuant to this AGREEMENT. Payment to CONSULTANT for services is not dependent upon CLIENT's collection of fees, or disputes with any other third party(ies).
- 3.3.4 For any given event that is canceled, CLIENT must promptly notify CONSULTANT as soon as known. Because late cancellations are highly disruptive to CONSULTANT's scheduling and other clients, if an event is canceled within less than 48 hours of the start time of that scheduled event, for any reason, CONSULTANT will charge CLIENT all fees and costs incurred as a result of said cancellation.
- 3.3.5 As to each payment, CONSULTANT shall provide CLIENT with appropriate lien releases and other satisfactory documentation from CONSULTANT and its consultants to ensure against the filing of liens against the PROJECT by the CONSULTANT or its consultants. CONSULTANT agrees to defend, indemnify and hold CLIENT harmless, including reasonable attorney's fees for any claims made by any sub-consultant with respect to Services performed on behalf of CONSULTANT pursuant to this Agreement except for those claims arising out of an act or omission on behalf of CLIENT. If CONSULTANT fails to make timely payments to any sub-consultant, CLIENT may elect to issue one or more checks which are payable jointly to CONSULTANT and the relevant sub-consultant. CLIENT may also elect to issue jointly payable checks in

circumstances where a dispute exists between CLIENT and the CONSULTANT with respect to overall value of Services for the Project. To the extent that compensation is withheld without justification under this AGREEMENT, CONSULTANT will be entitled to recover interest as provided in Section 3.3.7. To the extent that Services rendered in a specific month is materially less than reasonably anticipated, the monthly fee will be equitably adjusted.

- 3.3.6 This AGREEMENT may be terminated by either party, for materially failing to perform its respective obligations as outlined in this Agreement upon not less than seven (7) days written notice. CONSULTANT shall be paid for Services rendered and accepted by CLIENT up to the date of termination and shall be paid for all reasonable expenses resulting from such termination and for any unpaid reimbursable expenses. In the event of termination, CONSULTANT grants to the CLIENT the right to use and copy all Instruments of Service prepared by CONSULTANT for the purpose of performing repairs, alterations or improvements to this Project only provided that such documents shall not be altered or changed without CONSULTANT's permission.
- 3.3.7 Termination for Convenience: CLIENT may, without cause, terminate this AGREEMENT for convenience at any time upon giving ten (10) days written notice to the CONSULTANT. In the event of a termination for convenience, CONSULTANT shall be paid for all Services satisfactorily performed and approved by the CLIENT up to the date of such notice plus an additional amount for reasonable, unavoidable and direct actual costs incurred for demobilization for a maximum of ten (10) days after the date of such termination. CONSULTANT will provide all supporting documentation for all direct actual costs incurred as the CLIENT may reasonably require. Except as specifically provided above, CLIENT shall have no further liability to CONSULTANT for compensation, expenses, or fees and no amount shall be payable for anticipated profits or unperformed Work. All amounts payable shall be subject to CLIENT's right of audit and offset. In the event of termination for convenience, CONSULTANT grants to the CLIENT the right to use and copy all Instruments of Service prepared by CONSULTANT for the purpose of performing repairs, alterations or improvements to this Project only provided that such documents shall not be altered or changed without CONSULTANT's permission
- 3.3.8 For accounts not paid by the 60th day from the date of the invoice or conclusion of a case, CONSULTANT has the election of charging accrued interest at the prevailing statutory rate in Florida per annum at the time of the dispute, or 10% per annum, whichever is less. The costs of collection, including any reasonable attorney fees and expenses will be added to CLIENT's invoice.
- 3.3.9 Should CONSULTANT's suspension of services for non-payment devalue the PROJECT, CLIENT assumes any and all liability to injured parties including but not limited to individual homeowners and other independent parties retained by the CLIENT.

3.4 BILLING POLICY

- 3.4.1 CONSULTANT shall submit to CLIENT via email monthly itemized invoices.
- 3.4.2 CLIENT agrees to review invoices and pronounce them correct and conclusive, and CLIENT agrees they are binding on CLIENT, unless CLIENT informs CONSULTANT of any questions or disputes no more than 10 days from receipt of invoice.

3.5 OWNERSHIP AND USE OF DOCUMENTS

- 3.5.1 Drawings, specifications, reports, presentations, analyses, etc., prepared by CONSULTANT for the PROJECT, and any other documents prepared by CONSULTANT under the terms of this AGREEMENT, are instruments of the CONSULTANT's service for use solely with respect to this PROJECT, and unless otherwise provided, CONSULTANT shall be deemed the author of these documents and shall retain all common law, statutory and other reserved rights, including the copyright.
- 3.5.2 CLIENT shall have the right to use all Instruments of Service such as reports, plans, drawings, calculations and other documents prepared by CONSULTANT relating to this PROJECT only, provided that such documents shall not be altered or changed without CONSULTANT's permission. At the time of completion, or upon an earlier termination of this AGREEMENT, CONSULTANT shall promptly on demand turn over to CLIENT the originals of all such documents. CONSULTANT may retain one (1) set of reproducible copies thereof for information and reference purposes only.
- 3.5.3 The CONSULTANT's work product shall not be used by the CLIENT or others on other projects, for additions to the work on this PROJECT or for completion of work on this PROJECT by others, except by advance written agreement with the CONSULTANT.

ARTICLE 4 - WARRANTY/LIABILITY/INDEMNITY:

4.1 NO WARRANTY

- 4.1.1 No warranty, either expressed or implied, is being made with regard to any of the services to be provided pursuant to this AGREEMENT. CONSULTANT makes no warranties, representations, or guarantees in connection with the Agreement, any project, or any work or services performed in connection therewith, whether express or implied, including, without limitation, the implied warranties of merchantability and fitness for a particular purpose. This disclaimer shall survive any termination or expiration of the AGREEMENT. CLIENT acknowledges and agrees that any warranties provided by prior engineers, original manufacturers, licensors, or providers equipment or other items provided or used in connection with the "**PROPOSAL FOR ENGINEERING SCOPE OF SERVICES**", including items incorporated in the "**PROPOSAL FOR ENGINEERING SCOPE OF SERVICES**" ("third party warranties"), are not to be considered warranties of the CONSULTANT and the CONSULTANT makes no representations, guarantees, or warranties as to the applicability or enforceability of any such third party warranties.

4.2 INSURANCE COVERAGE

4.2.1 CONSULTANT shall carry Professional Liability Insurance, General Comprehensive Liability and Worker's Compensation Insurance. The Professional Liability Insurance Policy shall provide coverage in the minimum amounts of One Million Dollars (\$1,000,000.00) for each occurrence and One Million Dollars (\$1,000,000.00) in the aggregate. Consultant's liability to CLIENT shall be limited to the amount of insurance required to be furnished and maintained by CONSULTANT in accordance with this AGREEMENT. CONSULTANT shall also deliver to CLIENT Certificates of Insurance that reflects CLIENT named as an additional named insured with respect to its Commercial General Liability Insurance by special written endorsement delivered to CLIENT prior to commencement of Services. The Certificates of Insurance are labeled and attached to this Agreement as Exhibit "2". All insurance must be written by a company licensed in the State of Florida to write the insurance required by this Paragraph and the company shall have an A.M. Best Company rating of A VIII or better. Copies of the pertinent insurance policies maintained by CONSULTANT shall be made available for inspection and copying by CLIENT. This insurance shall be primary and other insurance of CLIENT shall not be contributory. CONSULTANT shall not cause any insurance policies to be cancelled or permit them to lapse during the period of performance of this AGREEMENT. All policies must provide that CLIENT shall receive not less than ten (10) days' notice of any cancellation. CONSULTANT shall be responsible for verifying that all consultants and sub-consultants maintain Worker's Compensation Insurance as required by the State of Florida.

4.2.2 Pursuant to Florida Statute Section 558.0035, an individual employee, agent, or principal of CONSULTANT may not be held individually liable for negligence arising out of or related to this agreement and the services provided.

4.2.3 CONSULTANT does not assume any liability for any work performed or any representations made by FEC or any other third-party provider on the PROJECT.

4.3 INDEMNITY

4.3.1 To the fullest extent permitted by law, CLIENT and CONSULTANT shall indemnify, defend and hold harmless each other and their respective directors, officers, members, and employees (hereafter collectively referred to as "Related Parties"), from and against all liability, claims, damages, losses and expenses, including, but not limited to, attorneys' fees, expert witness fees and other consultant fees, but only if such claims, damages, loss or expense arises out of, relates or results from the respective negligent acts, errors or omissions in the performance of the obligations of either party and/or the Services rendered by CONSULTANT and/or

its sub-consultants to CLIENT, for the PROJECT. The Indemnification obligations of the parties shall survive termination or expiration of this AGREEMENT.

ARTICLE 5 - MISCELLANEOUS

5.1 ASSIGNMENT

5.1.1 Neither this AGREEMENT, nor any duties or obligations under this AGREEMENT may be assigned by either party without the prior written consent of the non-assigning party.

5.2 SEVERABILITY

5.2.1 The invalidity or unenforceability of any provisions of this AGREEMENT shall not affect the validity or enforceability of any other provision of this AGREEMENT, which shall remain in full force and effect.

5.3 ATTORNEY FEES AND COSTS

5.3.1 If any legal action is necessary to enforce or interpret the terms of this AGREEMENT, the prevailing party shall be entitled to reasonable attorneys' fees, costs, and necessary disbursements in addition to any other relief to which he may be entitled. This provision shall be construed as applicable to the entire contract.

5.4 AMMENDMENTS

5.4.1 No alterations or changes to the terms of this AGREEMENT shall be valid unless made in writing and signed by both parties.

5.5 GOVERNING LAW

5.5.1 CONSULTANT and CLIENT agree that this AGREEMENT shall be construed, interpreted and enforced in accordance with the laws of the State of Florida. In the event of any action, litigation or proceeding of any type regarding or relating to performance of this AGREEMENT, the prevailing party shall be entitled to recover its reasonable costs and attorney's fees at all trial, appellate and bankruptcy levels. The venue for any litigation from the AGREEMENT shall be in a Court of competent jurisdiction in Broward County, Florida.

5.5.2 Waiver of Chapter 558, Florida Statutes: CLIENT and CONSULTANT waive the requirement to comply with Chapter 558, Florida Statutes relative to the obligations arising out of this Agreement. The provisions of Section 558.0035, Florida Statutes will continue to apply.

5.6 COUNTERPARTS

5.6.1 This AGREEMENT may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same AGREEMENT.

5.7 FORCE MAJEURE EVENT

- 5.7.1 This Agreement may be delayed or canceled for any Force Majeure events. For purposes of this Agreement "Force Majeure Event" means a fire, flood, windstorm, adverse weather conditions, emergencies, explosion, riot, war, sabotage, acts of God, strikes or labor slowdowns, court injunction or order, federal and/or state law or regulation, delays by governmental authorities in approving license and permit requests necessary to the Project, or order by any federal or state regulatory agency, or other similar causes beyond the affected Party's reasonable control. Without limiting the foregoing, a "Force Majeure Event" shall also include unavailability of personnel, equipment, supplies, or other resources ("Resources") due to diversion of such Resources for other utility-related duties in connection with an emergency, including, without limitation, storms or other adverse weather condition.

APPENDIX "B"
MARCON 2023 Service Rate Schedule

Hourly Base Fees:

Expert Witness Deposition & Trail Attendance	\$525.00
President	\$375.00
Vice President	\$310.00
Expert	\$300.00
Director	\$275.00
Senior Professional (PE)	\$255.00
Lead Field Investigator	\$250.00
Project Manager	\$225.00
Project Engineer (PE)	\$210.00
Senior Analyst (EI) / Field Technician	\$185.00
Analyst	\$165.00
Administrator	\$155.00

This schedule is subject to review and adjustment on the first of each year. Printing/plotting, express mail, travel costs, meals, etc., will be invoiced at cost plus 15%. Mileage on company or employee-owned vehicles will be invoiced at the IRS rate plus 15%.

Travel Expenses:

- Travel Expenses shall be charged from CONSULTANT's office locations.

MARCON

FORENSICS & ENGINEERING

September 23, 2024

Dave Barbour – Board President
Intracoastal Tower Condominium Association
1505 N Riverside Drive
Pompano Beach, FL 33062
Email: dave@redoaksshutter.com

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3. MARCON will respond to the Building Department’s permit review comments.
4. MARCON will observe the contractor’s work in progress and keep records thereof.

5. MARCON will perform periodic onsite observations to verify that the contractor is performing work-in-progress according to the project documents, repair protocols, applicable codes, manufacturer's installation instructions, and industry standards.
6. MARCON will review the contractor's requests for payments for quantities and quality of materials installed.
7. MARCON will review product submittals and shop drawings and respond to requests for information (RFI) during the construction phase.
8. MARCON will review Requests for Changes (RFC), Change Orders (CO), Payment Applications, and other out-of-scope conditions.
9. MARCON will facilitate the close-out of the project and issue a final letter of project completion.
10. MARCON will assist with any work that may be required for supplemental repairs for issues discovered during repairs or corrections made necessary by the repair contractor's work. This will include but not necessarily be limited to research, repair sketches, and coordination with the Building Department for such supplemental repairs during construction.
11. MARCON will notify the Association in writing of any act or omission by any party of which MARCON becomes aware and recognizes as threatening or causing harm to the property or the interests of the association.

Contract Exclusions:

The following are excluded from the scope of work and can be completed at an hourly rate with written authorization from the Client:

1. Any item not described in the Scope of Services.
2. Removal of finishes, material sampling, laboratory testing, or field testing, other than that specified above
3. Any work that may be required for supplemental repairs for issues discovered during repairs or corrections made necessary by the repair Contractor's work (billed hourly per Marcon's Hourly Schedule). This will include but not necessarily be limited to research, repair sketches, and coordination with the Building Department for such supplemental repairs during construction.
4. Facilitation of resolution of construction conflicts.

[END OF SCOPE OF SERVICES]

Fee and Schedule of Payment

Project Phase	Fee
Phase II: Bid Documentation and Bid Services	
Hourly	TBD
Phase III – Construction Administration	
Hourly-Not-To-Exceed per Month	\$8,950

Should additional services be required by you or by circumstances beyond our control, we will, upon your authorization, invoice you in accordance with our standard fee schedule provided in Appendix B.

Please note that this Proposal shall become null and void if not executed within 30 days of the date listed herein.

IN WITNESS WHEREOF, the parties hereto have accepted, made and executed this agreement upon the terms, conditions, and provisions above stated and attached herewith, the day, month, and year noted herein.

David R. Barbou
 Signature

David R Barbou
 Name

President
 Title

Intracoastal Tower Condo
 Company

10/11/2024
 Date

Jholyn Gutierrez
Digitally signed by Jholyn Gutierrez
 DN: C=US,
 E=jholyn@marconforensics.com,
 CN=Jholyn Gutierrez
 Date: 2024.09.23 15:21 23-04'00'

CONSULTANT (Jholyn Gutierrez)

09/23/2024
 Date

APPENDIX "A"

AGREEMENT BETWEEN CLIENT AND CONSULTANT

ARTICLE 1 - DEFINITIONS

1.1 CLIENT

1.1.1 The term "CLIENT" as it appears hereinafter is defined as the business entity known as **Gatherings Intracoastal Tower Condominium Association**.

1.2 CONSULTANT

1.2.1 The term "CONSULTANT" as it appears hereinafter refers to the business entity **Marcon Forensics, LLC**, its Principal Engineer and Managing Member, Felix Martin, and all associated employees and representatives of the company.

1.3 PROJECT

1.3.1 The term "PROJECT" as it appears hereinafter refers to **Intracoastal Tower**, in Pompano Beach, Florida, for which CONSULTANT's services are being retained.

ARTICLE 2 - CONSULTANT'S RESPONSIBILITY

2.1 CONSULTANT'S SCOPE OF SERVICES

2.1.1 CONSULTANT's basic services include forensic inspections, document review, studies, research, testing investigation and analysis of structures for the purpose of identification of defective construction, insurance claims, litigation support, expert witness testimony, and recertification.

2.1.2 CONSULTANT's basic services shall NOT include:

- Demolition or repair work generally performed by a licensed General Contractor
- Quantity or cost estimates for repair to the Project.
- Recommendations and opinions concerning matters not commonly associated with the disciplines of Engineering or Architecture.

2.1.3 CONSULTANT's services shall be performed as expeditiously as is consistent with standards of skill and care normal to the professional community.

2.1.4 CONSULTANT's scope of services included in this AGREEMENT shall be limited to and as described in CONSULTANT's "**PROPOSAL FOR ENGINEERING SCOPE OF SERVICES**" incorporated by reference.

2.1.5 CONSULTANT shall determine the manner in which those services are to be performed. CONSULTANT retains the right to staff the work on the PROJECT with adequate manpower at the sole discretion of the CONSULTANT for the purpose defined by the CONSULTANT's "**PROPOSAL FOR SCOPE OF ENGINEERING SERVICES**".

2.1.6 CONSULTANT has the discretion to hire at CONSULTANT's expense independent contractors to serve as experts and/or consultants or contractors to complete its tasks on behalf of CONSULTANT and pursuant to this AGREEMENT, and as limited by the "**PROPOSAL FOR ENGINEERING SCOPE OF SERVICES**". All of CONSULTANT's sub-consultants shall be properly licensed to perform all Services

relative to this Agreement. CONSULTANT shall be responsible to CLIENT for the acts and omissions of its employees, sub-consultants and their respective employees that perform any of the Services under this Agreement. The CONSULTANT and its sub-consultant(s) shall perform without expense to the CLIENT, such professional services as may be required to correct or remedy any negligent act, error or omission of the CONSULTANT or its sub-consultants. Independent contractors may only be retained with the express written approval of the CLIENT. Payments maybe withheld for CONSULTANT's failure to perform its obligations in accordance with this AGREEMENT.

2.2 COMMUNICATION AND COORDINATION OF WORK

- 2.2.1 CONSULTANT agrees to make reasonable efforts to communicate and coordinate work in a timely fashion with other independent Consultants or General Contractors retained by the CLIENT for the same PROJECT.
- 2.2.2 CONSULTANT shall not be held responsible for delays to work which are dependent upon timely performance of other independent parties retained by the CLIENT.
- 2.2.3 CONSULTANT will maintain confidence with matters relating to the progress of the investigations and all work performed on the PROJECT until completion of services.

2.3 PROFESSIONAL OPINION

- 2.3.1 CONSULTANT agrees to provide only CONSULTANT's best professional opinion, regardless of case status or other parties' interests, and consistent with standards of skill and care normal to the professional community. CONSULTANT's field visits or observation of portions of the work shall be conducted solely to determine in general if the work is being performed in a manner indicating that, when completed, the work will be in general conformance with the designer's intent and such periodic site visits, or observations shall not relieve other parties from their responsibility for performing their work in accordance with applicable plans and specifications.
- 2.3.2 The expert opinions offered by CONSULTANT or by any of its outside consultants are based on valid and reliable visual inspections of the PROJECT's building components and appurtenances. CONSULTANT does not guarantee all existing deficiencies will be identified and reported, but instead CONSULTANT intends to present its conclusions and opinions based on conditions actually observed and analyzed within the "**PROPOSAL FOR ENGINEERING SCOPE OF SERVICES**". In the event that conditions are uncovered that could not reasonably have been anticipated by CONSULTANT in the absence of exploratory testing, then CONSULTANT and/or its consultants shall be compensated on an additional services basis for professional services necessitated by said unanticipated conditions. In addition, CLIENT recognizes that existing conditions can vary from those assumed by CONSULTANT and that, in spite of the use of due professional

care, the limitation on available data results in some level of uncertainty with respect to the interpretation of these conditions

2.3.3 CLIENT and CONSULTANT agree that the "**PROPOSAL FOR ENGINEERING SCOPE OF SERVICES**" represents the agreed scope of work as defined by CLIENT to be performed by CONSULTANT under this AGREEMENT.

2.3.4 Nothing in this AGREEMENT as well as anything in CONSULTANT's services for CLIENT will be construed as a promise or guarantee as to the outcome of CLIENT's matter. CLIENT and CONSULTANT agree that CONSULTANT's compensation for services rendered in connection with this AGREEMENT is not determined by and in no way contingent upon whether CONSULTANT's opinions, conclusions or testimony are favorable to CLIENT's position. CLIENT must expect that CONSULTANT's opinions may be adverse to CLIENT's interests.

2.4 FILE RETENTION

2.4.1 Upon conclusion of CONSULTANT's services, all writing, documents, or other materials contained within CONSULTANT's files shall be placed in storage for a period not longer than five (5) years, after which time the files will be destroyed. Should CLIENT require different handling of the files, written request shall be made at the time of the conclusion of CONSULTANT's services.

ARTICLE 3 - CLIENT'S RESPONSIBILITIES

3.1 TIME REQUIREMENTS

3.1.1 CLIENT shall advise CONSULTANT in writing of all applicable time requirements, including court-imposed deadlines, and of their significance as a condition precedent to the performance of services under this AGREEMENT. CLIENT shall have the continuing responsibility to advise CONSULTANT of all applicable time requirements throughout the course of CONSULTANT's retention in this matter.

3.1.2 CLIENT agrees to provide CONSULTANT with all available documents, plans, drawings, materials, samples, or recorded data relevant to CONSULTANT's investigation, evaluation, and scope of work, or authorize CONSULTANT to perform a search for those documents. Material search, handling, and storage are subject to fees and costs. Fees and costs will be governed by CONSULTANT's Service Rate Schedule incorporated by reference and attached hereto as APPENDIX B.

3.2 HAZARDOUS MATERIALS

3.2.1 The CLIENT acknowledges that CONSULTANT 's scope of services does not include any services related to the presence of any hazardous or toxic materials including, but not limited to, asbestos, toxic or hazardous waste, PCB's, combustible gases and materials, petroleum, or radioactive materials. In the event any hazardous or toxic materials are present on or about the job site or any adjacent areas that may affect the performance of CONSULTANT 's services, CONSULTANT may, at its option and without liability for consequential or other

damages, suspend performance of its services under the AGREEMENT until CLIENT retains appropriate consultants or contractors to identify and abate or remove the hazardous or toxic materials in full compliance with all applicable laws and regulations. CLIENT shall indemnify, hold harmless and defend CONSULTANT and its employees and consultants from any claims, causes of action, costs or expenses, including fees, arising out of or relating to the presence of hazardous materials on the project.

3.3 PAYMENT FOR SERVICES

- 3.3.1 CLIENT agrees to pay CONSULTANT for the services listed under CONSULTANT's "**PROPOSAL FOR ENGINEERING SCOPE OF SERVICES**" as described in CONSULTANT's "**COMPENSATION**" incorporated by reference. Travel expenses and services beyond those listed under the "**PROPOSAL FOR ENGINEERING SCOPE OF SERVICES**" work shall be billed based on CONSULTANT's "**Service Rate Schedule**" incorporated by reference and attached hereto as APPENDIX B.
- 3.3.2 CLIENT agrees that all invoices are to be paid to CONSULTANT's business office, located at **1278 Glenneyre Street, Suite 247, Laguna Beach, California 92651**. Payment shall be made no later than sixty (60) days after the invoice date. Payment by the 60th day is a condition for continuing work. Delinquency in CLIENT's payment to CONSULTANT on any given case and/or job for which CONSULTANT is performing services on CLIENT's behalf will give CONSULTANT the right to suspend its services for CLIENT with respect to all cases and/or jobs wherein CONSULTANT is performing services on CLIENT'S behalf.
- 3.3.3 CLIENT is solely responsible for payment of the fees and costs generated by CONSULTANT for its services rendered pursuant to this AGREEMENT. Payment to CONSULTANT for services is not dependent upon CLIENT's collection of fees, or disputes with any other third party(ies).
- 3.3.4 For any given event that is canceled, CLIENT must promptly notify CONSULTANT as soon as known. Because late cancellations are highly disruptive to CONSULTANT's scheduling and other clients, if an event is canceled within less than 48 hours of the start time of that scheduled event, for any reason, CONSULTANT will charge CLIENT all fees and costs incurred as a result of said cancellation.
- 3.3.5 As to each payment, CONSULTANT shall provide CLIENT with appropriate lien releases and other satisfactory documentation from CONSULTANT and its consultants to ensure against the filing of liens against the PROJECT by the CONSULTANT or its consultants. CONSULTANT agrees to defend, indemnify and hold CLIENT harmless, including reasonable attorney's fees for any claims made by any sub-consultant with respect to Services performed on behalf of CONSULTANT pursuant to this Agreement except for those claims arising out of an act or omission on behalf of CLIENT. If CONSULTANT fails to make timely payments to any sub-consultant, CLIENT may elect to issue one or more checks which are payable jointly to CONSULTANT and the relevant sub-consultant. CLIENT may also elect to issue jointly payable checks in

circumstances where a dispute exists between CLIENT and the CONSULTANT with respect to overall value of Services for the Project. To the extent that compensation is withheld without justification under this AGREEMENT, CONSULTANT will be entitled to recover interest as provided in Section 3.3.7. To the extent that Services rendered in a specific month is materially less than reasonably anticipated, the monthly fee will be equitably adjusted.

- 3.3.6 This AGREEMENT may be terminated by either party, for materially failing to perform its respective obligations as outlined in this Agreement upon not less than seven (7) days written notice. CONSULTANT shall be paid for Services rendered and accepted by CLIENT up to the date of termination and shall be paid for all reasonable expenses resulting from such termination and for any unpaid reimbursable expenses. In the event of termination, CONSULTANT grants to the CLIENT the right to use and copy all Instruments of Service prepared by CONSULTANT for the purpose of performing repairs, alterations or improvements to this Project only provided that such documents shall not be altered or changed without CONSULTANT's permission.
- 3.3.7 Termination for Convenience: CLIENT may, without cause, terminate this AGREEMENT for convenience at any time upon giving ten (10) days written notice to the CONSULTANT. In the event of a termination for convenience, CONSULTANT shall be paid for all Services satisfactorily performed and approved by the CLIENT up to the date of such notice plus an additional amount for reasonable, unavoidable and direct actual costs incurred for demobilization for a maximum of ten (10) days after the date of such termination. CONSULTANT will provide all supporting documentation for all direct actual costs incurred as the CLIENT may reasonably require. Except as specifically provided above, CLIENT shall have no further liability to CONSULTANT for compensation, expenses, or fees and no amount shall be payable for anticipated profits or unperformed Work. All amounts payable shall be subject to CLIENT's right of audit and offset. In the event of termination for convenience, CONSULTANT grants to the CLIENT the right to use and copy all Instruments of Service prepared by CONSULTANT for the purpose of performing repairs, alterations or improvements to this Project only provided that such documents shall not be altered or changed without CONSULTANT's permission.
- 3.3.8 For accounts not paid by the 60th day from the date of the invoice or conclusion of a case, CONSULTANT has the election of charging accrued interest at the prevailing statutory rate in Florida per annum at the time of the dispute, or 10% per annum, whichever is less. The costs of collection, including any reasonable attorney fees and expenses will be added to CLIENT's invoice.
- 3.3.9 Should CONSULTANT's suspension of services for non-payment devalue the PROJECT, CLIENT assumes any and all liability to injured parties including but not limited to individual homeowners and other independent parties retained by the CLIENT.

3.4 BILLING POLICY

- 3.4.1 CONSULTANT shall submit to CLIENT via email monthly itemized invoices.
- 3.4.2 CLIENT agrees to review invoices and pronounce them correct and conclusive, and CLIENT agrees they are binding on CLIENT, unless CLIENT informs CONSULTANT of any questions or disputes no more than 10 days from receipt of invoice.

3.5 OWNERSHIP AND USE OF DOCUMENTS

- 3.5.1 Drawings, specifications, reports, presentations, analyses, etc., prepared by CONSULTANT for the PROJECT, and any other documents prepared by CONSULTANT under the terms of this AGREEMENT, are instruments of the CONSULTANT's service for use solely with respect to this PROJECT, and unless otherwise provided, CONSULTANT shall be deemed the author of these documents and shall retain all common law, statutory and other reserved rights, including the copyright.
- 3.5.2 CLIENT shall have the right to use all Instruments of Service such as reports, plans, drawings, calculations and other documents prepared by CONSULTANT relating to this PROJECT only, provided that such documents shall not be altered or changed without CONSULTANT's permission. At the time of completion, or upon an earlier termination of this AGREEMENT, CONSULTANT shall promptly on demand turn over to CLIENT the originals of all such documents. CONSULTANT may retain one (1) set of reproducible copies thereof for information and reference purposes only.
- 3.5.3 The CONSULTANT's work product shall not be used by the CLIENT or others on other projects, for additions to the work on this PROJECT or for completion of work on this PROJECT by others, except by advance written agreement with the CONSULTANT.

ARTICLE 4 - WARRANTY/LIABILITY/INDEMNITY:

4.1 NO WARRANTY

- 4.1.1 No warranty, either expressed or implied, is being made with regard to any of the services to be provided pursuant to this AGREEMENT. CONSULTANT makes no warranties, representations, or guarantees in connection with the Agreement, any project, or any work or services performed in connection therewith, whether express or implied, including, without limitation, the implied warranties of merchantability and fitness for a particular purpose. This disclaimer shall survive any termination or expiration of the AGREEMENT. CLIENT acknowledges and agrees that any warranties provided by prior engineers, original manufacturers, licensors, or providers equipment or other items provided or used in connection with the "**PROPOSAL FOR ENGINEERING SCOPE OF SERVICES**", including items incorporated in the "**PROPOSAL FOR ENGINEERING SCOPE OF SERVICES**" ("third party warranties"), are not to be considered warranties of the CONSULTANT and the CONSULTANT makes no representations, guarantees, or warranties as to the applicability or enforceability of any such third party warranties.

4.2 INSURANCE COVERAGE

4.2.1 CONSULTANT shall carry Professional Liability Insurance, General Comprehensive Liability and Worker's Compensation Insurance. The Professional Liability Insurance Policy shall provide coverage in the minimum amounts of One Million Dollars (\$1,000,000.00) for each occurrence and One Million Dollars (\$1,000,000.00) in the aggregate. Consultant's liability to CLIENT shall be limited to the amount of insurance required to be furnished and maintained by CONSULTANT in accordance with this AGREEMENT. CONSULTANT shall also deliver to CLIENT Certificates of Insurance that reflects CLIENT named as an additional named insured with respect to its Commercial General Liability Insurance by special written endorsement delivered to CLIENT prior to commencement of Services. The Certificates of Insurance are labeled and attached to this Agreement as Exhibit "2". All insurance must be written by a company licensed in the State of Florida to write the insurance required by this Paragraph and the company shall have an A.M. Best Company rating of A VIII or better. Copies of the pertinent insurance policies maintained by CONSULTANT shall be made available for inspection and copying by CLIENT. This insurance shall be primary and other insurance of CLIENT shall not be contributory. CONSULTANT shall not cause any insurance policies to be cancelled or permit them to lapse during the period of performance of this AGREEMENT. All policies must provide that CLIENT shall receive not less than ten (10) days' notice of any cancellation. CONSULTANT shall be responsible for verifying that all consultants and sub-consultants maintain Worker's Compensation Insurance as required by the State of Florida.

4.2.2 Pursuant to Florida Statute Section 558.0035, an individual employee, agent, or principal of CONSULTANT may not be held individually liable for negligence arising out of or related to this agreement and the services provided.

4.2.3 CONSULTANT does not assume any liability for any work performed or any representations made by FEC or any other third-party provider on the PROJECT.

4.3 INDEMNITY

4.3.1 To the fullest extent permitted by law, CLIENT and CONSULTANT shall indemnify, defend and hold harmless each other and their respective directors, officers, members, and employees (hereafter collectively referred to as "Related Parties"), from and against all liability, claims, damages, losses and expenses, including, but not limited to, attorneys' fees, expert witness fees and other consultant fees, but only if such claims, damages, loss or expense arises out of, relates or results from the respective negligent acts, errors or omissions in the performance of the obligations of either party and/or the Services rendered by CONSULTANT and/or

its sub-consultants to CLIENT, for the PROJECT. The Indemnification obligations of the parties shall survive termination or expiration of this AGREEMENT.

ARTICLE 5 - MISCELLANEOUS

5.1 ASSIGNMENT

5.1.1 Neither this AGREEMENT, nor any duties or obligations under this AGREEMENT may be assigned by either party without the prior written consent of the non-assigning party.

5.2 SEVERABILITY

5.2.1 The invalidity or unenforceability of any provisions of this AGREEMENT shall not affect the validity or enforceability of any other provision of this AGREEMENT, which shall remain in full force and effect.

5.3 ATTORNEY FEES AND COSTS

5.3.1 If any legal action is necessary to enforce or interpret the terms of this AGREEMENT, the prevailing party shall be entitled to reasonable attorneys' fees, costs, and necessary disbursements in addition to any other relief to which he may be entitled. This provision shall be construed as applicable to the entire contract.

5.4 AMMENDMENTS

5.4.1 No alterations or changes to the terms of this AGREEMENT shall be valid unless made in writing and signed by both parties.

5.5 GOVERNING LAW

5.5.1 CONSULTANT and CLIENT agree that this AGREEMENT shall be construed, interpreted and enforced in accordance with the laws of the State of Florida. In the event of any action, litigation or proceeding of any type regarding or relating to performance of this AGREEMENT, the prevailing party shall be entitled to recover its reasonable costs and attorney's fees at all trial, appellate and bankruptcy levels. The venue for any litigation from the AGREEMENT shall be in a Court of competent jurisdiction in Broward County, Florida.

5.5.2 Waiver of Chapter 558, Florida Statutes: CLIENT and CONSULTANT waive the requirement to comply with Chapter 558, Florida Statutes relative to the obligations arising out of this Agreement. The provisions of Section 558.0035, Florida Statutes will continue to apply.

5.6 COUNTERPARTS

5.6.1 This AGREEMENT may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same AGREEMENT.

5.7 FORCE MAJEURE EVENT

- 5.7.1 This Agreement may be delayed or canceled for any Force Majeure events. For purposes of this Agreement "Force Majeure Event" means a fire, flood, windstorm, adverse weather conditions, emergencies, explosion, riot, war, sabotage, acts of God, strikes or labor slowdowns, court injunction or order, federal and/or state law or regulation, delays by governmental authorities in approving license and permit requests necessary to the Project, or order by any federal or state regulatory agency, or other similar causes beyond the affected Party's reasonable control. Without limiting the foregoing, a "Force Majeure Event" shall also include unavailability of personnel, equipment, supplies, or other resources ("Resources") due to diversion of such Resources for other utility-related duties in connection with an emergency, including, without limitation, storms or other adverse weather condition.

APPENDIX "B"
MARCON 2023 Service Rate Schedule

Hourly Base Fees:

Expert Witness Deposition & Trail Attendance	\$525.00
President	\$375.00
Vice President	\$310.00
Expert	\$300.00
Director	\$275.00
Senior Professional (PE)	\$255.00
Lead Field Investigator	\$250.00
Project Manager	\$225.00
Project Engineer (PE)	\$210.00
Senior Analyst (EI) / Field Technician	\$185.00
Analyst	\$165.00
Administrator	\$155.00

This schedule is subject to review and adjustment on the first of each year. Printing/plotting, express mail, travel costs, meals, etc., will be invoiced at cost plus 15%. Mileage on company or employee-owned vehicles will be invoiced at the IRS rate plus 15%.

Travel Expenses:

- Travel Expenses shall be charged from CONSULTANT's office locations.