

EXHIBIT I

SAMPLE PROGRESSIVE DESIGN-BUILD AGREEMENT NO. 2025-027-SS

This Agreement is made and entered into this _____ day of _____, 20_____, by and between the City of Boca Raton, (hereinafter called the **Owner** or **City**) a Florida municipal corporation, and _____, (hereinafter called the **Design-Build Entity**);

WHEREAS, the City desires to retain the Design-Build Entity for the Jeffery Street Design-Build Project as described in RFP No. 2025-027-SS (**RFP**); and

WHEREAS, the Design-Build Entity hereby covenants and agrees to undertake and execute all of the Work as required and described in the Agreement Documents, in a good, substantial and workmanlike manner, and to furnish and pay for all design services, materials, labor, supervision, equipment, supplies, fees, expertise, and other services necessary to fully complete all Work in accordance with all requirements of the Agreement Documents and in accordance with all applicable codes and governing regulations, within the time limit specified in this Agreement.

1.0 DEFINITIONS

The definitions for all terms as used in this Agreement and all Agreement Documents shall be as defined in Article 1 of the General Conditions specified in Exhibit II to the RFP.

2.0 COMMENCEMENT OF WORK – NOTICES TO PROCEED.

- 2.1 There will be two Notices to Proceed issued for this Project. The first Notice to Proceed (NTP1) will be issued soon after this Agreement has been executed by all parties to initiate the design and procurement of approved materials and/or equipment. The second Notice to Proceed (NTP2) will be issued for construction on or after the advance design is complete and permits for construction have been obtained.
- 2.2 The Owner anticipates the performance of Design Services and procurement of materials related to the Project to begin at the time a first Notice to Proceed is issued. No Work shall be performed on the Design Services Phase until a Notice to Proceed is issued. The Notice to Proceed shall be on the Owner's form and shall be signed by both the Owner and the Design-Build Entity.
- 2.3 A second Notice to Proceed will be issued after the Notice to Proceed set forth in paragraph 2.2 above for the commencement of the Construction Phase which includes physical construction activities on the Site. Such Notices to Proceed shall set forth the day of commencement and the number of days to reach Substantial Completion and Final Completion.

3.0 COMPENSATION TO BE PAID DESIGN-BUILD ENTITY

3.1 Part 1, Design and Preconstruction

Pricing issued pursuant to this Agreement shall be in accordance with Exhibit V, Compensation for Services, which is attached hereto and incorporated by reference as part of this Agreement.

Design-Build Entity agrees that, with respect to any subconsultant or subcontractor to be utilized by Design-Build Entity, Design-Build Entity shall be limited to a maximum markup of five percent (5%) on the subcontractor or subconsultant's fees. The limitations on reimbursable expenses for subcontractors or subconsultants shall be same as those approved for the Design-Build Entity without any additional mark-up.

Compensation and the manner of payment of such compensation by the City for Services rendered hereunder by Design-Build Entity shall be as prescribed in accordance with this Contract Agreement. All payments made for Work and/or Services performed shall be made in accordance with the applicable provisions of Florida Statute 218.70 et seq, the Local Government Prompt Payment Act.

Any work performed by Design-Build Entity without proper authorization is performed at Design-Build Entity's risk, and City shall have no obligation to compensate Design-Build Entity for such work.

The City reserves the right to deduct portions of any applications for payment for the following reasons: Tasks not completed within the expressed time frame, including required deliverables, incomplete and/or deficient documents, failure to comply with local, state and/or federal requirements and/or codes and ordinances applicable to Design-Build Entity's performance of the work as related to the Project. This list is not deemed to be all-inclusive, and the City reserves the right to make the sole determination regarding deductions. After notification of deficiency, if the Design-Build Entity fails to correct the deficiency within the specified timeframe, these funds would be forfeited by the Design-Build Entity. The City may also deduct or charge the Design-Build Entity for services and/or items necessary to correct the deficiencies directly related or may seek to terminate the agreement pursuant to the terms of this Agreement.

3.2 Part 2, Construction

As identified in Part 1 of the Scope of Work, the Design Build Entity will develop a Guaranteed Maximum Price (GMP) for the construction of the Project. Development of the GMP by the Design-Builder will use an "open book" method, including competitive bids from qualified subcontractors and vendors.

3.3 During the Construction Phase, the Design-Build Entity shall be paid as provided in the General Conditions Article 31 entitled "PAYMENTS"

4.0 SCHEDULE, TIME OF COMMENCEMENT, LIQUIDATED DAMAGES, AND SUBSTANTIAL COMPLETION

4.1 Agreement Time: Part 1, Design and Pre-Construction

The Work identified in this Agreement for Part 1, Design and Pre-Construction shall be commenced promptly and prosecuted with diligence. The Work shall be completed as established within the calendar days set forth in the Notice to Proceed.

The Design-Build Entity acknowledges that failure to complete Part 1, Design and Pre-Construction of the Project within the Agreement Time set forth in this Agreement and approved schedule will result in substantial damages to the Owner.

It is mutually agreed by and between the parties hereto that time shall be an essential part of this Agreement, and that in case of the failure on the part of the Design-Build Entity to achieve Substantial Completion and Final Completion within the Agreement Time established in this Agreement, the Owner will be damaged thereby. The amount of said damages that will be sustained by the Owner as a consequence of a delay in Substantial Completion or Final Completion, inclusive of expenses for inspection(s), Design Build Entity's additional fees, as well as additional personnel superintendence, and necessary traveling expenses, is difficult if not impossible to precisely ascertain the amount of the damages, it is hereby agreed that the amount of such damages shall be \$1,000.00 for every calendar day delay in finishing the Work in excess of the number of calendar days prescribed for Substantial and \$500.00 for every calendar day in finishing the Work in excess of the number of calendar days prescribed for Final Completion. The Design-Build Entity hereby agrees that said sum shall be deducted from monies due Design-Build Entity under this Agreement, or if no money is due the Design-Build Entity, the Design-Build Entity hereby agrees to pay to the Owner as liquidated damages and not by way of penalty, such total sum as shall be due.

4.2 Agreement Time: Part 2, Construction

At the time a Guaranteed Maximum Price (GMP) is established, by and through an Amendment to this Agreement, the Agreement Time shall be established, and the dates of Substantial Completion and Final Completion shall be determined.

The Design-Build Entity acknowledges that failure to complete Part 2, Construction of the Project within the Agreement Time set forth in the Amendment to this Agreement and approved schedule will result in substantial damages to the Owner.

It is mutually agreed by and between the parties hereto that time shall be an essential part of this Agreement, and that in case of the failure on the part of the Design-Build Entity to achieve Substantial Completion and Final Completion within the Agreement Time established in the Amendment to this Agreement, the Owner will be damaged thereby. The amount of said damages that will be sustained by the Owner as a consequence of a delay in Substantial Completion or Final Completion, inclusive of expenses for inspection(s), Design Build Entity's additional fees, as well as additional personnel superintendence, and necessary traveling expenses, is difficult if not impossible to precisely ascertain the amount of the damages, it is hereby agreed that the amount of such damages shall be \$1,000.00 for every calendar day delay in finishing the Work in excess of the number of calendar days prescribed for Substantial and \$500.00 for every calendar day in finishing the Work

in excess of the number of calendar days prescribed for Final Completion. The Design-Build Entity hereby agrees that said sum shall be deducted from monies due Design-Build Entity under this Agreement, or if no money is due the Design-Build Entity, the Design-Build Entity hereby agrees to pay to the Owner as liquidated damages and not by way of penalty, such total sum as shall be due.

4.3 Substantial Completion

When Design-Build Entity considers the entire Work ready for its intended use, Design-Build Entity shall notify Owner and Engineer in writing that the entire Work has met Substantial Completion or Final Completion (except for items specifically listed by Design-Build Entity as incomplete or requiring correction) and request that the Owner and Engineer promptly make an inspection of the Work to determine the status of completion. In accordance with Section 218.735(7), Florida Statutes, if the Engineer does not consider the Work to meet Substantial Completion or Final Completion, Engineer will notify Design-Build Entity and Owner by certification giving the reasons therefore and the estimated cost of correction. Such certificate shall be prepared within thirty (30) days of Design-Build Entity's notification. This certificate will be provided to the Design-Build Entity within 5 days of its preparation. If the Engineer considers the Work Substantially Complete or Finally Complete, the Engineer shall prepare and deliver to the Owner and Design-Build Entity a certificate which shall fix the date of the Substantial Completion or Final Completion and shall include a written recommendation as to division of responsibilities pending final payment between the Owner and Design-Build Entity with respect to security, operation, safety, and protection of the Work, maintenance, insurance and warranties and guarantees. Unless the Owner and Design-Build Entity agree otherwise in writing, and so inform the Engineer in writing, the aforesaid recommendation will be binding on the Owner and Design-Build Entity.

5.0 **AGREEMENT TERM**

The term of this Agreement shall commence on the date set forth above and shall continue until Final Completion, subject to the cancellation clauses under Article 14, Owner's Right to Terminate Agreement.

6.0 **GUARANTEED MAXIMUM PRICE FOR PART 2, CONSTRUCTION**

6.1 Guaranteed Maximum Price (GMP)

Design-Build Entity shall, based upon the Design Criteria Package, develop GMP Proposal(s), including, a Project Construction Schedule. The GMP may be revisited and reduced based on negotiations with the City. All assumptions made by the Design-Build Entity in the development of the GMP shall be specifically listed in the GMP Proposal, and the GMP will not be adjusted due to assumptions made by the Design-Build Entity, but not included in the GMP Proposal. The GMP shall include all costs associated with the planning, design, permitting, and performance of the Work required by this Agreement.

Design-Build Entity does not guarantee any specific line item provided as part of the GMP, and has the sole discretion to apply payment due to overruns in one line item to savings due to under runs in any other line item. Design-Build Entity agrees,

however, that it will be responsible for paying all costs of completing the Work which exceed the GMP, as adjusted in accordance with the Contract Documents. Design-Build Entity agrees that it will be responsible for paying the applicable costs in excess of those indicated in this Agreement. Design-Build Entity agrees that it will be responsible for paying the applicable general condition costs in excess of the general conditions cap. GMP may be adjusted in accordance with this Agreement. GMP savings shall be returned to the City.

When the construction design documents are sufficiently complete to establish the Work required for the Project or any Part or portion thereof, as generally defined by a Design Criteria Package to be provided by the Engineer and Design-Build Entity upon execution of this Agreement, which is to be used only as a guide in developing the specifications and plan data necessary to establish a Guaranteed Maximum Price, or at such time thereafter designated by the Owner, the Design-Build Entity will establish and submit in writing to the Owner for its approval the total Guaranteed Maximum Price in the form described in Article 6.4 guaranteeing the maximum price to the Owner for the Total Cost of Construction of the Project or designated Phase thereof. Such Guaranteed Maximum Price will be subject to modification for Changes in the Work, however, the actual price paid for the Work by the Owner shall be the actual cost of all Work subcontracts, supply contracts, direct labor costs, direct supervision costs and General Condition items of the Project, less any Contingency balance, or the GMP, whichever is less, when the Work is complete.

If the GMP Proposal is accepted by the Owner, the parties will then execute an amendment to the Agreement for Part 2, Construction. Notwithstanding anything herein to the contrary, Owner reserves the absolute right, in its sole discretion, to reject the GMP Proposal and not execute the Part 2 for any or no reason whatsoever, or to terminate this Agreement in accordance with Article 14. In such event, all final design documents and Project Documents will become the property of the Owner and Owner will be entitled to retain and use all such Project Documents as set forth in Article 15 herein.

6.2 Taxes

The GMP will only include those taxes in the cost of the Project, which are legally enacted at the time the GMP is established.

6.3 Contingency

The GMP may include agreed upon sums as the Owner's Contingency and the Construction Contingency.

Owner's Contingency-The Owner's Contingency is available for use for items including, but not limited to, Owner, Project Manager or Design-Build Entity request items, outside agency requirements, unforeseen conditions and the cost of work necessarily incurred as a result of design error/omission. Prior to the authorization for use of the Contingency, the Design-Build Entity will be required to furnish documentation, approved by the Owner, justifying the expenditures that are requested to be funded from the Owner's Contingency. Adjustments to the Owner's Construction Contingency shall be provided in a report on a monthly basis. The

Owner's Contingency amount may be reduced at any time by the Owner and such reduction shall be reflected by a Change Order to reduce the GMP.

6.4 Supporting Documents for GMP submittal

The Design-Build Entity shall submit a GMP Document (Document) for Owner approval for the Work. The Document shall have a cover page identifying the Project Name and Project Number as stated in this Agreement. The Document shall be provided to the Owner in a digital format and shall include each of the following items book marked separately:

- (a) Executive Summary
- (b) Qualifications & Clarifications
- (c) Guaranteed Maximum Price Summary- shall include the following:
 - i. An itemized GMP Summary;
 - ii. A detailed list of an Owner accepted value engineering items;
 - iii. Allowances; and
 - iv. Required Submittals:
 - Construction Team Assigned Representatives and Services;
 - Pay Application – In substantial conformance to AIA Form G702-G703 as approved by Owner;
 - List of Major Subcontractors.
- (d) Construction Detail Summary Sheet – A detail by Construction Specifications Institute (CSI) Division per the GMP Summary of the purchased and unpurchased Scope of Work.
- (e) List of Allowances by CSI Division, with a detailed description and amount, in the GMP Summary.
- (f) Project Schedule containing the following:
 - i. Schedule Narrative; and
 - ii. CPM Schedule identifying the specific milestone completion dates with Substantial Completion dates as required.
- (g) Document List (drawings, specifications, other documents).
- (h) Construction Phase Fee.

7.0 **SUCCESSORS, ASSIGNS AND ASSIGNMENT**

The Owner and the Design-Build Entity each binds itself, its officers, directors, qualifying agents, partners, successors, assigns and legal representatives to the other party hereto and to the partners, successors, assigns and legal representatives of such other party in respect to all covenants, agreements and obligations contained in the Agreement. It is agreed that the Design-Build Entity shall not assign, transfer, convey or otherwise dispose of the Agreement or its right, title or interest in or to the same or any part thereof, or allow legal action to be brought in its name for the benefit of others, without previous consent of the Owner and concurred to by the sureties.

8.0 INDEPENDENT CONTRACTOR

Design-Build Entity represents that it is fully experienced and properly qualified to perform the class of work provided for herein, and that it is properly licensed, equipped, organized and financed to perform such work. Design-Build Entity shall act as an independent contractor and not as the agent of Owner in the performance of the Agreement, maintaining complete control over its employees and all of its suppliers and subcontractors. Nothing contained in this Agreement, or any sub-agreement awarded by Design-Build Entity shall create any contractual relationship between any such supplier or subcontractor and Owner. Design-Build Entity shall perform the Work in accordance with its own methods subject to compliance with this Agreement.

9.0 INTENT AND CORRELATION OF DOCUMENTS

9.1 The Agreement Documents cover, with explicit provisions, all matters relating to the Work which the Design-Build Entity undertakes to construct or perform in full compliance with such provisions. It is understood that Design-Build Entity has, by personal examination and inquiry, if necessary, satisfied itself as to all local conditions and as to the meaning, requirements and reservations of the Agreement Documents. No deviation will be allowed from the Project Manager's interpretation thereof. The intent of the Agreement Documents is to include all labor, materials (except as may be specifically designated to be furnished by the Owner) equipment, and transportation necessary for the proper execution of the Work. Design-Build Entity shall, in addition, provide all Work and materials not shown in detail but necessary for completion of the Project as indicated or specified including a proper and suitable preparation, base or support, and a reasonable finish consistent with adjacent work which is shown or specified. Items described in the singular shall include the plural and vice-versa, when appropriate to complete all Work necessary to result in a completed Project. Design-Build Entity shall follow the Specifications and Drawings and execute all Work in strict accordance therewith and with the kind and quality of materials indicated and specified. Materials or work described in words which, when so applied, have a well-known technical or trade meaning shall be held to refer to such recognized standards. Any deviation from the Drawings and Specifications, which may be required by the exigencies of construction, shall in all cases conform to written instructions of the Project Manager. The applicable provisions of the Agreement Documents shall apply with equal force to all Work, including extra Work, performed under this Agreement, whether performed either directly by the Design-Build Entity or by a Subconsultant.

9.2 In resolving conflicts resulting from conflicts, errors, or discrepancies in any of the following "Agreement Documents", the order of precedence shall be as follows:

- Change Orders
- Agreement
- General Conditions
- RFP
- Addenda
- Technical Specifications

- Drawings/Exhibits
- Proposal, Forms and Attachments

The preceding list of documents are collectively herein referred to as the "Agreement Documents" which are complementary, and what is called for by any, shall be as binding as if called for by all.

Design-Build Entity shall carefully study and compare all Drawings, Specifications and other instructions and shall test all figures on the Drawings before laying out the Work. The following shall apply regarding Drawing specifications:

1. Full size details shall take precedence over scale drawings and large-scale drawings shall take precedence over small scale drawings. Dimensions given in figures shall take precedence over scaled dimensions.
2. When measurements are affected by conditions already established or where items are to be fitted into constructed conditions it shall be Design-Build Entity's responsibility to verify all such dimensions at the Site and the actual job dimensions shall take precedence over scale and figure dimensions on the Drawings.
3. Wherever the stock size of manufactured item or piece of equipment is specified by its nominal size, it shall be the responsibility of Design-Build Entity to determine the actual space requirements for setting and to make all necessary allowances and adjustments therefore in Design-Build Entity's work without additional cost to the Owner.
4. When resolving conflicts with the Drawings, the entire installation and each part thereof shall be constructed in the position required. The finished surfaces of structures shall conform to the elevation and/ or gradients specified, and all parts of substructures and superstructures shall be in proper alignment and adjustment. Design-Build Entity shall provide all frames, cribbing, false work, scaffolds, shoring, guides, anchors, and temporary structures which may be necessary to obtain these results, although such will not, generally, be shown or noted on the Drawings; and the Agreement Price(s) shall include and cover all such work, material, and construction. Any deviation from the Drawings, which may be found necessary or advantageous, will be determined by the Owner.

10.0 LAWS/ORDINANCES

Design-Build Entity shall observe and comply with all federal, state, county, local and municipal laws, ordinances, rules, and regulations that would apply to this Agreement. Failure by the Design-Build Entity to comply with all applicable laws ordinances, rules, and regulations shall constitute a breach of this Agreement and the City shall have the discretion to unilaterally terminate this Agreement.

11.0 LIMITATION OF LIABILITY/ NO WAIVER

The Design-Build Entity's recovery from Owner for any action or claim arising from the Agreement shall be limited to the maximum amount of the Agreement Price, less the amount of all funds actually paid by Owner to Design-Build Entity pursuant to this Agreement.

Nothing contained in this paragraph or elsewhere in this Agreement is in any manner intended either to be a waiver of the limitation placed upon the Owner's liability as set forth in Section 768.28, Florida Statutes, or to extend the Owner's liability beyond the limits established in said Section; and no claim or award against the Owner shall include attorney fees, investigative costs, expert fees, suit costs or pre-judgment interest. This section shall not prevent the Owner from taking corrective action against the Design-Build Entity.

Except as specifically and expressly provided for herein, no provision of this Agreement is intended to, or shall be construed to, create any third-party beneficiary or to provide any rights to any person or entity not a party to this Agreement.

12.0 INDEMNIFICATION/HOLD HARMLESS AGREEMENT

To the fullest extent permitted by law, the Design-Build Entity hereby agrees to defend, indemnify and hold harmless the City of Boca Raton, its officers, agents, and employees from liabilities, damages, losses, and costs, including, but not limited to reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentionally wrongful misconduct of the Design-Build Entity and persons employed or utilized by the Design-Build Entity in the performance of the Agreement. This indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Design-Build Entity and/or persons employed or utilized by the Design-Build Entity, in the performance of the Agreement under any insurance required by the Agreement, including, but not limited to workers' compensation acts, disability benefit acts, or other employee benefit acts.

Any costs and expenses, including attorney's fees, appellate, bankruptcy or defense counsel fees incurred by the City of Boca Raton to enforce this Indemnification Clause shall be borne by the Design-Build Entity. This Indemnification Clause shall continue indefinitely and survive the cancellation, termination, expiration, lapse or suspension of this agreement.

This provision shall not be deemed to waive any of the rights or immunities accorded to the CITY by section 768.28, Florida Statutes, or any other applicable law.

13.0 PROVISION AND MAINTENANCE OF BOND

A Surety Bond legally issued, meeting the requirements in the Agreement Documents and approved by the Owner shall be maintained by Design-Build Entity as referenced under the RFP.

If the Surety on any Bond furnished by the DESIGN-BUILD ENTITY is declared bankrupt or becomes insolvent or its right to conduct business in the State of Florida is terminated or it ceases to meet the requirements of Surety Bond, the Design-Build Entity shall within five (5) days thereafter substitute another Bond and Surety, both of which shall be subject to the approval by the Owner. Failure to maintain such Surety Bond shall constitute a breach of the Agreement and the Owner in its sole discretion shall be authorized to terminate the Agreement as provided in Article 12 herein.

14.0 TERMINATION

A. Owner's Right to Terminate Agreement for Default

1. Default

Notwithstanding any other provisions of this Agreement, Design-Build Entity shall be considered in default of its contractual obligation under this Agreement if it:

- (a) Performs work which fails to conform to the requirements of this Agreement;
- (b) Fails to meet the Agreement schedule or fails to make progress so as to endanger performance of this Agreement;
- (c) Abandons or refuses to proceed with any or all work including modifications directed pursuant to the clauses entitled Extra Work, Article 38 and Omitted Work, Article 39 in the General Conditions;
- (d) Fails to supply enough properly skilled workers or material;
- (e) Fails to make prompt payments to Subconsultants or suppliers for materials or labor;
- (f) Fails to obey laws, ordinances, rules, regulations or orders of public agencies having jurisdiction;
- (g) Fails to maintain a surety bond as required by the Agreement;
- (h) Fails to provide safety equipment or enforce safety procedures for workers on the site;
- (i) Fails to protect persons or property; or
- (j) Fails to fulfill any of the terms of this Agreement or to comply in any way with the Agreement Documents.

Any of the above conditions shall be sufficient grounds for the Owner to find the Design-Build Entity in default and that sufficient cause exists to terminate the Agreement and/or to withhold payment or any part thereof until the cause or causes giving rise to the default has been eliminated by the Design-Build Entity and approved by the Owner.

If a finding of default is made, the Design-Build Entity and Design-Build Entity's Surety shall remain responsible for performance of the requirements of the Agreement Documents unless and until the Owner terminates the Agreement.

2. Notice of Default

Upon a finding of default, the Owner shall notify Design-Build Entity in writing of the nature of the failure and shall set a reasonable time within which the Design-Build Entity and its Surety shall eliminate the cause or causes of default.

When the basis for finding of default no longer exists, the Owner shall notify the Design-Build Entity and its Surety in writing that the default has been corrected and that the Design-Build Entity is no longer in default.

3. Suspension of Work for Default

Owner may, at its sole option, suspend the performance of all or a portion of work to be performed under the Agreement as a result of a finding of default, and shall include such suspension in the Notice of Default described above. Said suspension shall continue until such time as the Owner has notified the Design-Build Entity that the default has been corrected and the suspension has been removed, or the Design-Build Entity has been terminated. During said period of suspension, Design-Build Entity shall not be entitled to assert any claims for damages or any claims for time extensions or adjustments.

4. Notice of Agreement Termination for Default

If the Design-Build Entity fails to correct the default within the time allowed, or if Design-Build Entity or its Surety fails to provide satisfactory evidence that such default will be corrected, Owner may, without notice to Design-Build Entity's Surety, and without otherwise waiving its rights against the Design-Build Entity or its Surety, provide written notice to the Design-Build Entity of the termination, in whole or in part, of this Agreement.

Owner may prosecute the Work to completion by Agreement or by any other method deemed expedient and/or make demand upon the Surety to perform, at Owner's sole option. Owner may take possession of and utilize any materials, plant, tools, equipment, and property of any kind furnished by Design-Build Entity and necessary to complete the work.

Upon termination for default, Design-Build Entity shall:

- (a) immediately discontinue Work on the date and to the extent specified in the notice and place no further purchase orders or sub-agreements to the extent that they relate to the performance of Work terminated;
- (b) inventory, maintain and turn over to Owner all materials, plant, tools, equipment, and property furnished by Design-Build Entity or provided by Owner for performance of Work;
- (c) promptly obtain cancellation upon terms satisfactory to Owner of all purchase orders, sub-agreements, rentals, or any other agreements existing for performance of the terminated Work or assign those agreements to Owner as directed;
- (d) cooperate with Owner in the transfer of information and disposition of Work in progress so as to mitigate damages;
- (e) comply with other reasonable requests from Owner regarding the terminated Work; and
- (f) continue to perform in accordance with all of the terms and conditions of the Agreement such portion of Work that is not terminated.

If, upon termination pursuant to this clause, it is determined for any reason that Design-Build Entity was not in default, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the provisions of Article 12B as provided herein.

5. Costs of Completed Work of Terminated Agreement.

Design-Build Entity and its Surety, shall be liable jointly and severally for all costs in excess of the Agreement price for such terminated Work reasonably and necessarily incurred in the completion of the Work as scheduled, including cost of administration of any Agreement awarded to others for completion and for Liquidated Damages.

This section shall survive the cancellation, termination, expiration, lapse or suspension of this Agreement.

B. Optional Termination of Agreement By Owner

Owner may, at its sole option, terminate the Agreement, in whole or in part at any time, by thirty (30) day written notice thereof to Design-Build Entity, whether or not Design-Build Entity is in default. If it was determined that Design-Build Entity was not in default as specified in Article 12 (A) (4), the 30 day notice requirement in this section is waived as long as the notice requirement set forth in Article 12 (A)(2) is satisfied. Upon any such termination, Design-Build Entity hereby waives any claims for damages from the optional termination, including loss of anticipated profits, on account thereof. The sole right and remedy of Design-Build Entity under this paragraph shall be that Owner shall pay Design-Build Entity in accordance with the subparagraphs below, provided, however, that those provisions of the Agreement which by their very nature survive final acceptance under the Agreement shall remain in full force and effect after such termination, including but not limited to:

1. Upon receipt of any such notice, Design-Build Entity and its Surety shall, unless the notice requires otherwise:
 - (a) Immediately discontinue Work on the date and to the extent specified in the notice;
 - (b) Place no further orders or sub-agreements for materials, services, or facilities, other than as may be necessary or required for completion of such portion of Work under the Agreement that is not terminated;
 - (c) Promptly make every reasonable effort to obtain cancellation upon terms satisfactory to Owner of all orders and sub-agreements to the extent they relate to the performance of Work terminated or assign to Owner those orders and sub-agreements and revoke agreements specified in such notice;
 - (d) Assign all sub-agreements required for performance of this Agreement to the Owner;
 - (e) Assist Owner, as specifically requested in writing, in the maintenance, protection and disposition of property acquired by Owner under the Agreement; and
 - (f) Complete performance of any Work which is not terminated.

2. Upon any such termination, Owner will pay to Design-Build Entity an amount determined in accordance with the following (without duplication of any item):
 - (a) All amounts due and not previously paid to Design-Build Entity for Work completed in accordance with the Agreement prior to such notice, and for Work thereafter completed as specified in such notice.
 - (b) The reasonable cost of settling and paying claims arising out of the termination of Work under sub-agreements or orders as provided above.
 - (c) The verifiable costs of Work completed by Subconsultant.
 - (d) Any other reasonable costs which can be verified to be incidental to such termination of Work.

15.0 OWNERSHIP OF DOCUMENTS

Design-Build Entity shall be required to work in harmony with the Project Manager and other consultants relative to providing information requested in a timely manner and in the specified form. Any and all documents, records, disks, original drawings, or other information prepared under this Agreement shall become the property of the Owner upon completion, for its use and distribution as may be deemed appropriate by the Owner.

Upon the completion or termination of the Work, as directed by Owner, Design-Build Entity shall deliver to Owner copies or originals of all records, documents, drawings, notes, tracings, plans, Auto CADD files, specifications, maps, evaluations, reports and other technical data, other than working papers, prepared or developed by or for Design-Build Entity ("Project Documents"). Owner shall specify whether the originals or copies of such Project Documents are to be delivered by Design-Build Entity. Design-Build Entity shall be solely responsible for all costs associated with delivering to Owner the Project Documents. Design-Build Entity, at its own expense, may retain copies of the Project Documents for its files and internal use.

Notwithstanding anything in this Agreement to the contrary, Design-Build Entity shall retain sole ownership to its pre-existing information. Design-Build Entity hereby grants to Owner a nonexclusive, irrevocable license in all of the Project Documents for Owner's use with respect to the applicable authorized Project or task. Any services for verification or adaptation performed by the Design-Build Entity may entitle the Design-Build Entity to further compensation. Design-Build Entity warrants to Owner that it has full right and authority to grant this license to Owner. Further, Design-Build Entity consents to Owner's use of the Project Documents to complete the subject Project or task following Design-Build Entity's termination for any reason or to perform additions to or remodeling, replacement or renovations of the subject Project or task. Design-Build Entity also acknowledges Owner may be making Project Documents available for review and information to various third parties and hereby consents to such use by Owner and such third parties.

16.0 PROVISION AND MAINTENANCE OF INSURANCE

The Design-Build Entity shall purchase and maintain such comprehensive general liability and other insurance as will provide protection from claims set forth below which may arise out of or result from the Design-Build Entity's performance of the Work and the Design-Build Entity's other obligations under this Agreement, whether such performance is by the Design-Build Entity, by

any subcontractor, by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable.

Design-Build Entity agrees, at its sole expense, to maintain on a primary basis during the life of this Agreement, or the performance of work hereunder, insurance coverages, limits, and endorsements as required herein.

All such insurance shall remain in effect until final payment and at all times thereafter when the Design-Build Entity may be correcting, removing or replacing defective Work in accordance with the Warranty provisions of the Agreement.

The Design-Build Entity agrees the insurance requirements herein as well as City of Boca Raton's review or acknowledgement, is not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the Design-Build Entity under this Agreement.

A. COVERAGE AND MINIMUM LIMITS

1. Commercial General Liability.

Design-Build Entity agrees to maintain Commercial General Liability at a limit of liability not less than **\$1,000,000/\$2,000,000** occurrence/aggregate occurrence/aggregate. Design-Build Entity agrees its coverage will not contain any restrictive endorsement(s) excluding or limiting Product/Completed Operations, Independent Contractor, Broad Form Property Damage, X-C-U Coverage, Contractual Liability, Cross Liability or Separation of Insureds. The Design-Build Entity agrees any self-insured retention or deductible shall not exceed \$25,000.

Additional Insured Endorsements.

The Design-Build Entity agrees to endorse the City of Boca Raton as an Additional Insured on the Commercial General Liability policy on a primary and non-contributory basis with the following, or similar endorsement providing equal or broader Additional Insured coverage, the CG 2010 04 13 and the GC 20 37 07 04 which shall be required to provide back coverage for the Design-Build Entity's "your work" as defined in the policy and liability arising out of the products-completed operations hazard.

Design-Build Entity shall maintain such completed operations insurance for at least one (1) year after final payment and furnish City of Boca Raton with evidence of continuation of such insurance at final payment and one (1) year thereafter.

2. Business Automobile Liability.

Design-Build Entity agrees to maintain Business Automobile Liability at a limit of liability not less than **\$1,000,000** Each Occurrence. Coverage shall include liability for Owned, Non-Owned & Hired automobiles. In the event Design-Build Entity does not own automobiles, Design-Build Entity agrees to maintain coverage for Hired & Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

3. Commercial Umbrella/Excess Liability.

(May be used to supplement minimum General Liability Coverage requirements).

The Design-Build Entity agrees to endorse the City of Boca Raton as an “Additional Insured” on the Commercial Umbrella/Excess Liability, unless the Commercial Umbrella/Excess Liability provides coverage on a pure/true follow-form basis, or the City of Boca Raton is automatically defined as an Additional Protected Person.

4. Worker’s Compensation & Employer’s Liability.

The Design-Build Entity agrees to maintain its own Worker’s Compensation & Employers Liability Insurance in compliance with Florida Statute 440. **(NOTE: Elective exemptions or coverage through an employee leasing arrangement will NOT satisfy this requirement).**

5. Professional Liability.

Design-Build Entity shall maintain Professional Liability insurance for both the Design-Build Entity and any professional required to carry professional licenses. The policy shall be written at a limit of not less than \$1,000,000 Each Occurrence and \$2,000,000 Annual Aggregate.

B. SUBCONTRACTOR INSURANCE

The Design-Build Entity shall agree to cause each subcontractor employed by Design-Build Entity to purchase and maintain insurance of the type specified herein, unless the Design-Build Entity’s insurance provides coverage on behalf of the subcontractor. When requested by the City of Boca Raton, the Design-Build Entity shall agree to obtain and furnish copies of certificates of insurance evidencing coverage for each subcontractor.

C. DEDUCTIBLES, COINSURANCE PENALTIES & SELF-INSURED RETENTION

The Design-Build Entity agrees to be fully and solely responsible for any costs or expenses as a result of a coverage deductible, coinsurance penalty, or self-insured retention; including any loss not covered because of the operation of such deductible, coinsurance penalty, self-insured retention, or coverage exclusion or limitation.

D. WAIVER OF SUBROGATION

The Design-Build Entity agrees by entering into this written Agreement to a Waiver of Subrogation in favor of the City of Boca Raton, Design-Build Entity, sub-contractors, architects, or engineers for each required policy providing coverage during the life of this Agreement.

When required by the insurer or should a policy condition not permit the Design-Build Entity to enter into a pre-loss agreement to waive subrogation without an endorsement, the Design-Build Entity agrees to notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or an equivalent endorsement.

This Waiver of Subrogation requirement shall not apply to any policy, which includes a condition that specifically prohibits such an endorsement, or voids coverage should the Design-Build Entity enter into such an agreement on a pre-loss basis. The Waiver of

Subrogation shall be in accordance with all of the limits, terms and conditions set forth herein.

E. RIGHT TO REVISE OR REJECT

The Design-Build Entity agrees the City of Boca Raton reserves the right, but not the obligation, to review or revise any insurance requirement, not limited to limits, coverages and endorsements based on insurance market conditions affecting the availability or affordability of coverage; or changes in the scope of work / specifications affecting the applicability of coverage. Additionally, the City of Boca Raton reserves the right, but not the obligation, to review and reject any insurance policies failing to meet the criteria stated herein, or any insurer(s) providing coverage due of its poor financial condition or failure to operate legally in the State of Florida. In such events, The City of Boca Raton shall provide Design-Build Entity written notice of such revisions or rejections.

F. NO REPRESENTATION OF COVERAGE ADEQUACY.

The coverages, limits or endorsements required herein protect the primary interests of the City of Boca Raton, and the Design-Build Entity agrees in no way should these coverages, limits or endorsements required be relied upon when assessing the extent or determining appropriate types and limits of coverage to protect the Design-Build Entity against any loss exposures, whether as a result of the Project or otherwise.

G. REQUIREMENTS OF INSURERS PROVIDING THE INSURANCE

Insurers providing the insurance required by this Agreement must meet the following minimum requirements:

- (a) Be authorized to maintain certificates of authority issued to the companies by the Department of Insurance of the State of Florida or be eligible surplus lines insurers under Florida Statute 626.918, and
- (b) Must have a current rating of "A-" or better and a Financial Size Category of "IV" or better according to the most recent rating in effect by the A.M. Best Company.

H. CERTIFICATE OF INSURANCE (COI) AND CANCELLATION/NON RENEWAL OF COVERAGE

The Design-Build Entity agrees to provide the City of Boca Raton with certificate(s) of insurance that clearly evidences the Design-Build Entity's insurance contains the minimum coverages, limits, and endorsements set forth herein. The City of Boca Raton requires an original or electronically transmitted certificate of insurance (COI) on an ACORD-25 form (2010/05) and the required endorsements as specified above.

A minimum thirty (30) day endeavor to notify due to cancellation, non-renewal of coverage shall be identified on each certificate(s) of insurance. If the Design-Build Entity receives a non-renewal or cancellation notice from an insurance carrier affording coverage required herein, or receives notice that coverage no longer complies with the insurance requirements herein, Design-Build Entity agrees to notify the City of Boca Raton Project Manager and copy the City's Risk Manager in writing within (30) business days with a

copy of the non-renewal or cancellation notice, or written specifics as to which coverage is no longer in compliance.

In the event the City of Boca Raton is notified that a required insurance coverage will cancel or expire during the period of this Agreement, the Design-Build Entity agrees to furnish the City of Boca Raton prior to the expiration of such insurance, a new certificate of insurance evidencing replacement coverage. When notified by the City of Boca Raton the Design-Build Entity agrees not continue work pursuant to this Agreement, unless all required insurance remains in effect.

The City of Boca Raton shall have the right, but not the obligation, of prohibiting Design-Build Entity from entering the Project Site until a new certificate of insurance is provided to the City of Boca Raton evidencing the replacement coverage. The Design-Build Entity agrees the City of Boca Raton reserves the right to withhold payment to Design-Build Entity until evidence of reinstated or replacement coverage is provided to the City of Boca Raton. If the Design-Build Entity fails to maintain the insurance as set forth herein, the Design-Build Entity agrees the City Of Boca Raton shall have the right, but not the obligation, to purchase replacement insurance, which the Design-Build Entity agrees to reimburse any premiums or expenses incurred by the City of Boca Raton.

I. CERTIFICATE OF INSURANCE FORMAT

The Design-Build Entity agrees the Certificate(s) of Insurance shall:

1. Clearly indicate the City is endorsed as an Additional Insured as per requirements herein, Item A. Insurance Coverage and Minimum Limits.
2. Clearly indicate the Project name and RFP number.
3. Clearly identify each policy's limits, flat & percentage deductibles, sub-limits, or self-insured retentions, whether in excess or equal to the amounts or percentages set forth herein.
4. Clearly indicate a minimum thirty (30) day endeavor to notify requirement in the event of cancellation or non-renewal of coverage.
5. Clearly indicate Certificate Holder(s) and Address:
6. Include the appropriate Endorsement listing the City of Boca Raton as an additional Insured. (CG 2010 04 013 or; CG2010 07 04 and CG2037 07 04)

Certificate Holder: City of Boca Raton
Attn:
2500 NW 1st Avenue
Boca Raton, FL 33431
Email: Purchasing-Insurance@boca-raton.fl.gov

17.0 NOTICES

Any notice, demand, communication, or request required or permitted hereunder shall be in writing and delivered in person or sent by certified mail, postage prepaid as follows:

As to Owner: City of Boca Raton

Name: _____

Address: 2500 NW 1st Avenue,
Boca Raton, FL 33431

Email: _____

As to Design-Build Entity: _____

Name: _____

Address: _____

Fax: _____

Email: _____

Notices shall be effective when delivered to the address specified above. Changes in the respective addresses to which such notice may be directed may be made from time to time by any party by written notice to the other party. Facsimile and Email is acceptable notice effective when received, however, facsimiles received (i.e. printed) after 5:00 p.m. or on weekends or holidays, will be deemed received on the next business day. The original of the notice must additionally be mailed as required herein.

Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of Design-Build Entity and Owner in the performance of the Work.

18.0 MISCELLANEOUS

18.1 Remedies

The remedies expressly provided in this Agreement to the Owner shall not be deemed to be exclusive but shall be cumulative and in addition to all other remedies in favor of the Owner now or later existing at law or in equity.

18.2 Nonwaiver

A waiver by either Owner or Design-Build Entity of any breach of this Agreement shall not be binding upon the waiving party unless such waiver is in writing and duly signed by both parties to this Agreement. In the event of a written waiver, such a waiver shall not affect the waiving party's rights with respect to any other or further breach. The making or acceptance of a payment by either party with knowledge of the existence of a default or breach shall not operate or be construed to operate as a waiver of any subsequent default or breach.

18.3 Severability

The invalidity, illegality, or unenforceability of any provision of this Agreement, or the occurrence of any event rendering any portion or provision of this Agreement void or voidable, shall in no way affect the validity or enforceability of any other

portion or provision of the Agreement. Any void or voidable provision shall be deemed severed from the Agreement and the balance of the Agreement shall be construed and enforced as if the Agreement did not contain the particular portion or provision held to be void. The parties further agree to reform the Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision.

The provisions of this section shall not prevent the entire Agreement from being held void should a provision which is of the essence of the Agreement be determined to be void by a court of competent jurisdiction.

18.4 Governing Law / Venue / Waiver of Jury Trial

This Agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Agreement will be held in Palm Beach County. **BY ENTERING INTO THIS AGREEMENT, DESIGN-BUILD ENTITY AND CITY OF BOCA RATON HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.**

18.5 Maintenance of Records

Design-Build Entity will keep adequate records and supporting documentation which concern or reflect the Work hereunder. The records and documentation will be retained by Design-Build Entity for a minimum of five (5) years from (a) the date of termination of this Agreement or (b) the date the Work is completed, whichever is later, or such later date as may be required by law. Owner, or any duly authorized agents or representatives of Owner, shall, free of charge, have the right to audit, inspect and copy all such records and documentation as often as they deem necessary during the period of this Agreement and during the five (5) year period noted above, or such later date as may be required by law; provided, however, such activity shall be conducted only during normal business hours.

18.6 Political Campaigns

During the term of this Agreement, CONTRACTOR shall comply in all respects with any and all applicable provisions of the Florida Election Code, the Florida Code of Ethics, and the Palm Beach County Code of Ethics, as they relate to participation in or contributions to political campaigns for City elective office.

19.0 **STATUTORILY REQUIRED LANGUAGE**

19.1 Scrutinized Companies

A. Pursuant to Section 287.135, Design-Build Entity is ineligible to enter into, or renew, this Agreement if:

1. Design-Build Entity is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with activities in the Iran Petroleum Energy Sector List (as identified in Section 215.473, Florida Statutes);

2. Design-Build Entity engages in business operations in Cuba or Syria; or
 3. Design-Build Entity is on the Scrutinized Companies that Boycott Israel List (as identified in Section 215.4725, Florida Statutes), or is engaged in a boycott of Israel.
- B. By entering into this Agreement, Design-Build Entity certifies that Design-Build Entity is not on the Scrutinized Companies with Activities in Sudan List, the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or the Scrutinized Companies that Boycott Israel List, and that Design-Build Entity is not engaged in a boycott of Israel. Design-Build Entity acknowledges that Design-Build Entity executed a certification to this effect at the time it submitted a response to the City's Request for Proposals and that such certification was likewise accurate at the time of execution of this Agreement.
 - C. Design-Build Entity shall notify the Owner if, at any time during the term of this Agreement, Design-Build Entity is placed on the Scrutinized Companies with Activities in Sudan List, the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or the Scrutinized Companies that Boycott Israel List, or that Design-Build Entity is engaged in a boycott of Israel. Such notification shall be in writing and provided by Design-Build Entity to the Owner within ten (10) days of the date of such occurrence.
 - D. In the event the Owner determines, using credible information available to the public, that Design-Build Entity has submitted a false certification or Design-Build Entity is found to have been placed on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, the Scrutinized Companies with Activities in Sudan List, or the Scrutinized Companies that Boycott Israel List or engaged in a boycott of Israel, the Owner may, in its sole discretion, terminate this Agreement and seek a civil penalty, and other damages and relief, against Design-Build Entity, pursuant to Section 287.135, Florida Statutes. In addition, the Owner may pursue any and all other legal remedies against Design-Build Entity.
 - E. Design-Build Entity shall not seek damages, fees, or costs against Owner in the event Owner terminates the Agreement pursuant to this provision.

19.2 E-VERIFY

By entering into this Agreement, the Design-Build Entity becomes obligated to comply with the provisions of Section 448.095, Fla. Stat., "Employment Eligibility." This includes but is not limited to utilization of the E-Verify System to verify the work authorization status of all employees hired after January 1, 2021 (as well as contractual employees whose Agreement is renewed after January 1, 2021), and requiring all subconsultants to provide an affidavit attesting that the subconsultant does not employ, contract with, or subcontract with, an unauthorized alien. Failure to comply will lead to termination of this Agreement, or if a subconsultant knowingly violates the statute, the sub-agreement must be terminated immediately. Any challenge to termination under this provision must be filed in the Circuit Court no later than 20 calendar days after the date of termination. If this Agreement is

terminated for a violation of the statute by the Design-Build Entity, the Design-Build Entity may not be awarded a public Agreement for a period of 1 year after the date of termination. Should Design-Build Entity violate the requirements of Section 448.095, Fla. Stat., they shall be liable for any additional costs incurred by the City as a result of the termination of the Agreement.

19.3 Public Records

- A. The City of Boca Raton is a public agency subject to Chapter 119, Florida Statutes. This Agreement requires the Design-Build Entity to provide services and/or materials, and therefore the Design-Build Entity shall comply with Section 119.0701, Florida Statutes. Specifically, the Design-Build Entity shall:
1. Keep and maintain all public records related to the performance of the Work.
 2. Upon request from the Owner's custodian of public records, provide the Owner with a copy of the requested records, or allow the records to be inspected or copied within a reasonable time, at a cost that does not exceed that provided in chapter 119, Florida Statutes, or as otherwise provided by law.
 3. Ensure that public records that are exempt, or confidential and exempt, from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement.
 4. Upon completion or other termination of the Agreement, keep and maintain the public records required by the Owner to perform the Work. The Design-Build Entity shall meet all applicable requirements for retaining public records set out in Florida law.
 5. In addition to maintaining the records pursuant to Paragraph Number 4 above, provide to the Owner all records that were stored electronically by Design-Build Entity, upon request from the Owner's custodian of public records, in a format that is compatible with the information technology systems of the Owner.
- B. The failure of the Design-Build Entity to comply with the provisions set forth in this Article, or to comply with the Owner's request for records, shall constitute a default and breach of this Agreement, and the Owner shall, in its discretion, pursue any and all remedies against the Design-Build Entity provided for under this Agreement or at law.

IF DESIGN-BUILD ENTITY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO DESIGN-BUILD ENTITY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS BID, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 561-393-7740, BRCITYCLERK@MYBOCA.US, CITY HALL, CITY CLERK, 201 W. PALMETTO PARK ROAD, BOCA RATON, FL 33432.

19.4 Additional Statutorily required language.

A. FOREIGN GIFTS AND AGREEMENTS

Pursuant to Fla. Stat. §286.101(3), where the amount of the grant or Agreement is \$100,000.00 or more, Design-Build Entity shall disclose any current or prior interest of, any Agreement with, or any grant or gift received from a country of foreign concern with a value of \$50,000 or more that was received or in force during the previous five (5) years. Definitions, disclosure requirements and exceptions are found in Fla. Stat. §268.101. Design-Build Entity represents and warrants it has complied with Fla. Stat. §286.101, it has properly disclosed such interests, Agreements, grants or gifts to Owner before execution of this Agreement, and it will remain in compliance with Fla. Stat. §286.101 for the duration of this Agreement.

B. ENTITIES OF FOREIGN COUNTRIES OF CONCERN

Section 287.138, Florida Statutes, prohibits the Owner from entering in to a Agreement which would give access to an individual's personal identifying information to an entity with; a Controlling Interest (as that term is defined in sub-section 287.138(1)(a)), or full ownership, held by a Foreign Country of Concern (as that term is defined in sub-section 287.138(1)(c)), or with a principal place of business in a Foreign Country of Concern, unless the entity provides the CITY with an affidavit signed by an officer or representative of the entity under penalty of perjury attesting that the entity does not meet any of the criteria in paragraphs (2)(a)-(c) of the statute.

Upon submitting its Proposal the Design-Build Entity has executed the Affidavit attached to the RFP as Attachment F-1 certifying compliance with section 287.138, Florida Statutes. The Owner reserves the right to terminate any agreement in which the Design-Build Entity provides a false certification or otherwise violates Section 287.138, Florida Statutes.

C. PUBLIC ENTITY CRIMES

By its execution of this Agreement, Design-Build Entity acknowledges that it has been informed by CITY of, and is in compliance with, the terms of Section 287.133(2)(a) of the Florida Statutes which read as follows:

"A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a Agreement to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a Agreement with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity, may not be awarded or perform work as a Design-Build Entity, supplier, subconsultant, or consultant under a Agreement with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list."

D. NONCOERCIVE CONDUCT FOR LABOR

The DESIGN-BUILD ENTITY shall comply with the requirements of Section 787.06(13), Florida Statutes, by having an officer or other authorized representative of the DESIGN-BUILD ENTITY execute the Affidavit attached to the RFP as Attachment F-2, which attests, under penalty of perjury, that it does not use coercion for labor or services, as defined in Section 787.06, Florida Statutes.

20.0 ENTIRE AGREEMENT

This Agreement constitutes the entire agreement of the parties hereto and no prior representation, inducement, promise or agreement, oral or written, between the parties not embodied herein shall be of any force and effect. This Agreement may only be amended or modified by a written document authorized and executed by the Parties, as provided herein.

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IN WITNESS WHEREOF, the City of Boca Raton, at a regular meeting thereof, by action of the City Council authorizing and directing the foregoing be adopted, has caused these presents to be signed by its City Manager, and its seal to be hereunto affixed, and _____ has executed this Agreement all as of the day and year first above written.

CITY OF BOCA RATON

Witness:

By: _____
George S. Brown, City Manager
(Seal)

Approved as to Form and Legal Sufficiency:

By: _____
City Attorney

Approved by Council on _____, 20____

Item _____

DESIGN-BUILD ENTITY:

Attest:

By: _____
Signature

Corporate Secretary
(affirm Corporate Seal)

Witness:

Name: _____

Title: _____
President or other duly authorized
Corporate Officer