

## **SAMPLE CONTRACT**

### **2026-006-NP Old Floresta Infrastructure Upgrade**

This Contract made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, by and between the City of Boca Raton, (hereinafter called the **Owner**) a Florida municipal corporation, and \_\_\_\_\_, (hereinafter called the **Contractor**);

WHEREAS, the Owner desires to retain the Contractor for the Project as expressed in its RFP No. 2026-006-NP; and,

WHEREAS, the Contractor hereby covenants and agrees to undertake and execute all of the Work as required and described in the Contract Documents (as defined in Article 1 in the General Conditions), in a good, substantial and workmanlike manner, and to furnish and pay for all materials, labor, supervision, equipment, supplies, fees, expertise, and services necessary to fully complete all Work in accordance with all requirements of the Contract Documents and in accordance with all applicable codes and governing regulations, within the time limit specified in the Contract.

#### **1.0 DEFINITIONS**

The definitions for all terms as used in this Contract and all Contract Documents shall be as defined in Article 1 of the General Conditions.

#### **2.0 CONTRACT TIME**

The Work under this Contract shall be commenced promptly and prosecuted with diligence.

In accordance with the General Conditions, the Work shall be:

Substantially Completed on or before the Substantial Completion Date (within 830 calendar days after the date provided in the Notice to Proceed), and

Finally Completed on or before the Final Completion Date and ready for final payment in accordance with this Contract within 890 calendar days after the date provided in the Notice to Proceed.

#### **3.0 COMPENSATION TO BE PAID CONTRACTOR**

3.1 In consideration of the faithful performance of this Contract by the Contractor, the Owner will pay to the Contractor for the full and entire completion of this Contract and upon acceptance of the Work by the Owner the amount of \$\_\_\_\_\_ subject to additions and deletions by Change Order as provided for in this Contract. This represents the entire cost which the Owner will have to pay the Contractor for acceptable and conforming Work, inclusive of all materials, supplies, costs, fees, and is the maximum extent of the owner's obligation to pay Contractor but does not constitute a limitation, of any sort, of the Contractor's obligations to perform the Work in accordance with this Contract.

3.2 The amount to be paid by the Owner shall be determined by unit prices (including lump sum line items), all of which are contained in the RFP documents submitted by the Contractor, which are incorporated in, and made a part of this Contract.

- 3.3 Any work performed by Contractor without proper authorization is performed at Contractor's risk, and Owner shall have no obligation to compensate Contractor for such work.

#### 4.0 **LIQUIDATED DAMAGES**

##### 4.1 Liquidated Damages for Entire Project

A. Owner and Contractor recognize that time is of the essence for the completion of the Work. As such, Owner and Contractor recognize that Owner will suffer direct financial loss if the Work is not completed within the Contract Time, plus any extensions thereof allowed in accordance with the General Conditions. They also recognize the delays, expense and difficulties involved in proving the actual loss suffered by the Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Contractor agrees to forfeit and pay Owner, as liquidated damages for delay (but not as a penalty), the amount of \$1,000 for each calendar day that expires after the Contract Time for Substantial Completion until the Work is substantially complete. Liquidated damages shall accrue sequentially and not concurrently.

After Substantial Completion, if the Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time (Final Completion Date), the Contractor shall pay the Owner \$750 for each calendar day that expires after the time for Final Completion.

B. The Owner is hereby authorized to deduct the designated liquidated damages from the monies which may be due or become due to Contractor for the Work under this Contract, or as much thereof as the Owner may, at its sole discretion, deem just and reasonable.

#### 5.0 **SUCCESSORS, ASSIGNS AND ASSIGNMENT**

The Owner and the Contractor 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 Contract. It is agreed that the Contractor shall not assign, transfer, convey or otherwise dispose of the contract 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.

#### 6.0 **INDEPENDENT CONTRACTOR**

Contractor 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. Contractor shall act as an independent Contractor and not as the agent of Owner in performing the Contract, maintaining complete control over its employees and all of its suppliers and subcontractors. Nothing contained in this Contract or any subcontract awarded by Contractor shall create any contractual relationship between any such supplier or subcontractor and Owner. Contractor shall perform the Work in accordance with its own methods subject to compliance with the Contract.

#### 7.0 **INTENT AND CORRELATION OF DOCUMENTS**

A. The Contract Documents cover, with explicit provisions, all matters relating to the Work which the Contractor undertakes to construct or perform in full compliance with such provisions. It is understood that Contractor has, by personal examination and inquiry, if necessary, satisfied himself as to all local conditions and as to the meaning, requirements and reservations of the Contract Documents. No deviation will be allowed from the Engineer's (as identified in the General Conditions)

interpretation thereof. The intent of the Contract 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. Contractor 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. Contractor 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 Engineer. The applicable provisions of the Contract Documents shall apply with equal force to all Work, including extra Work, performed under this Contract, whether performed either directly by the Contractor or by a Subcontractor.

- B. In resolving conflicts resulting from conflicts, errors, or discrepancies in any of the Contract Documents, the order of precedence shall be as follows:
- Change Orders
  - Contract
  - Addenda
  - Technical Specifications
  - Drawings
  - Special Provisions
  - General Conditions

The Contract Documents are complementary, and what is called for by any shall be as binding as if called for by all.

Contractor 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 Contractor'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 a stock size of manufactured item or piece of equipment is specified by its nominal size, it shall be the responsibility of Contractor to determine the actual space requirements for setting and for entrance to the setting space and to make all necessary allowances and adjustments therefore in Contractor's work without additional cost to the Owner.

- C. 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 part of substructures and superstructures shall be in proper alignment and adjustment. Contractor 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 Contract 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 Engineer.

## **8.0 LAWS/ORDINANCES**

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

## **9.0 LIMITATION OF LIABILITY/ NO WAIVER**

Contractor agrees to the limitation of liability of the Owner for any cause of action arising out of this Agreement as stated herein.

The Contractor 's recovery from the Owner for any action or claim arising from the Contract is limited to a maximum amount of the Contract Price less the amount of all funds actually paid by the Owner to Contractor pursuant to this Contract.

Nothing contained in this paragraph or elsewhere in this Contract 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 Contractor.

Except as specifically and expressly provided for herein, no provision of this Contract 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.

## **10.0 INDEMNIFICATION/HOLD HARMLESS AGREEMENT**

This indemnification is limited to the extent permitted by Section 725.06, Florida Statutes. The Contractor 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 Contractor and persons employed or utilized by the Contractor in the performance of the Contract. 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 Contractor and/or persons employed or utilized by the Contractor, in the performance of the Contract under any insurance required by the Contract, 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 Contractor. This Indemnification Clause shall survive the completion, cancellation, termination, expiration, lapse or suspension of this Agreement to the fullest extent permitted by law.

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.

## **11.0 PROVISION AND MAINTENANCE OF BONDS**

Surety Bonds legally issued, meeting the requirements in the Contract Documents and approved by the Owner shall be maintained by Contractor.

If the Surety on any Bond furnished by the Contractor 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 Contractor 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 Contract and the Owner in its sole discretion shall be authorized to terminate the Contract as provided in Section 12 herein.

## **12.0 TERMINATION**

### **A. Owner's Right to Terminate Contract for Default** **1. Default**

Notwithstanding any other provisions of this Contract, Contractor shall be considered in default of its contractual obligation under this Contract if it:

- (a) Performs work which fails to conform to the requirements of this Contract;
- (b) Fails to meet the contract schedule or fails to make progress so as to endanger performance of this Contract;
- (c) Abandons or refuses to proceed with any or all work including modifications directed pursuant to the clause 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 Subcontractors 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 Contract;
- (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 Contract or to comply in any way with the Contract Documents.

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

If a finding of default is made, the Contractor and Contractor's Surety shall remain responsible for performance of the requirements of the Contract Documents unless and until the Owner terminates the Contract.

## 2. Notice of Default

Upon a finding of default, the Owner shall notify Contractor in writing of the nature of the failure and shall set a reasonable time within which the Contractor 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 Contractor and its Surety in writing that the default has been corrected and that the Contractor 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 Contract 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 Contractor that the default has been corrected and the suspension has been removed, or the Contractor has been terminated. During said period of suspension, Contractor shall not be entitled to assert any claims for damages or any claims for time extensions or adjustments.

## 4. Notice of Contract Termination for Default

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

Owner may prosecute the Work to completion by contract 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 Contractor and necessary to complete the work.

Upon termination for default, Contractor shall:

- (a) immediately discontinue work on the date and to the extent specified in the notice and place no further purchase orders or subcontracts 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 Contractor or provided by Owner for performance of work;
- (c) promptly obtain cancellation upon terms satisfactory to Owner of all purchase orders, subcontracts, 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 Contract such portion of work that is not terminated.

If, upon termination pursuant to this clause, it is determined for any reason that Contractor 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 Section 12B as provided herein.

5. Costs of Completed Work of Terminated Contract.

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

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

B. Optional Termination of Contract By Owner

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

1. Upon receipt of any such notice, Contractor 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 subcontracts for materials, services, or facilities, other than as may be necessary or required for completion of such portion of work under the Contract that is not terminated;
  - (c) Promptly make every reasonable effort to obtain cancellation upon terms satisfactory to Owner of all orders and subcontracts to the extent they relate to the performance of work terminated or assign to Owner those orders and subcontracts and revoke agreements specified in such notice;
  - (d) Assign all subcontracts required for performance of this Contract to the Owner;
  - (e) Assist Owner, as specifically requested in writing, in the maintenance, protection and disposition of property acquired by Owner under the Contract; and
  - (f) Complete performance of any work which is not terminated.

2. Upon any such termination, Owner will pay to Contractor an amount determined in accordance with the following (without duplication of any item):
  - (a) All amounts due and not previously paid to Contractor for work completed in accordance with the Contract 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 subcontracts or orders as provided above.
  - (c) The verifiable costs of work completed by Subcontractors.
  - (d) Any other reasonable costs which can be verified to be incidental to such termination of work.

### **13.0 PROVISION AND MAINTENANCE OF INSURANCE**

The Contractor 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 Contractor's performance of the Work and the Contractor's other obligations under this Contract, whether such performance is by the Contractor, 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.

Contractor agrees, at its sole expense, to maintain on a primary basis during the life of this Contract, 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 Contractor may be correcting, removing or replacing defective Work in accordance with the Warranty provisions of the Contract.

The Contractor 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 Contractor under this Contract.

#### **A. COVERAGE AND MINIMUM LIMITS**

##### **1. Commercial General Liability.**

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

##### **Additional Insured Endorsements.**

The Contractor 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 contractor's "your work" as defined in the policy and liability arising out of the products-completed operations hazard.

Contractor 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.**



Contractor 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 Contractor does not own automobiles, Contractor 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

The Contractor 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. Umbrella or Excess Liability minimum requirement is \$5,000,000.

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

The Contractor 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. Inland Marine Installation Floater Insurance.

The Contractor, prior to notice to proceed or commencement of work, whichever occurs first, agrees to maintain an Inland Marine Installation Floater coverage providing property coverage to protect the interests of the City of Boca Raton, including property acquired under a sales tax incentive program, property in transit, and property on or off-premises, which shall become part of a location, building, or project. Coverage shall be written on a All-Risk, Replacement Cost, and in an amount at least equal to One-Hundred Percent (100%) of the completed value (hard and soft costs included) as well as subsequent modifications of that sum by way of change orders. The Contractor agrees any flat deductible(s) shall not exceed \$25,000, and any wind percentage deductible (when applicable) shall not exceed five-percent (5%). The City of Boca Raton shall be endorsed as either a Loss Payee or Additional Insured on policy.

Additional Insured Endorsement. The Contractor agrees to endorse the City of Boca Raton as an Additional Insured on the Inland Marine Installation Floater Insurance coverage form.

6. Pollution Liability.

The Contractor shall agree to maintain Pollution Liability, at a minimum limit not less than \$1,000,000 per occurrence/\$1,000,000 annual aggregate providing coverage for damages against, but not limited to, third-party liability, clean up, corrective action including assessment, remediation and defense costs. The coverage may be provided on a stand-alone policy or by way of endorsement to the Commercial General Liability Policy. When a self-insured retention or deductible exceeds \$10,000, the City reserves the right, but not the obligation, to review and request a copy of the Contractor's most recent annual report or audited financial statements.

**B. SUBCONTRACTOR INSURANCE**

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

**C. DEDUCTIBLES, COINSURANCE PENALTIES & SELF-INSURED RETENTION**

The Contractor 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 Contractor agrees by entering into this written Contract to a Waiver of Subrogation in favor of the City of Boca Raton and its officers, agents, and employees for each required policy providing coverage during the life of this Contract.

When required by the insurer or should a policy condition not permit the Contractor to enter into a pre-loss agreement to waive subrogation without an endorsement, the Contractor 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 Contractor 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 Contractor 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 Contractor 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 Contractor 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 Contractor 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 Contract must meet the following minimum requirements:

(a) Be authorized by 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 Contractor agrees to provide the City of Boca Raton with certificate(s) of insurance that clearly evidences the Contractor'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 Contractor 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, Contractor agrees to notify the City of Boca Raton project manager and copy the City's Risk Manager in writing within thirty (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 Contract, the Contractor 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 Contractor agrees not continue work pursuant to this Contract, unless all required insurance remains in effect.

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

#### **I. CERTIFICATE OF INSURANCE FORMAT**

The Contractor 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  
201 W. Palmetto Park Road  
Boca Raton, FL 33432  
Attn: City Project Manager / Edward Galvan  
Email:

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#### **14.0 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 Edward Galvan  
Address 201 W. Palmetto Park Road, Boca Raton, FL- 33432  
Email egalvan@myboca.us

As to Contractor: \_\_\_\_\_  
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 Contractor and Owner in the performance of the Work.***

## **15.0 MISCELLANEOUS**

### **15.1 Remedies**

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

### **15.2 Nonwaiver**

A waiver by either Owner or Contractor of any breach of this Contract shall not be binding upon the waiving party unless such waiver is in writing and duly signed by both parties to this Contract. 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.

### **15.3 Severability**

The invalidity, illegality, or unenforceability of any provision of this Contract, or the occurrence of any event rendering any portion or provision of this Contract void or voidable, shall in no way affect the validity or enforceability of any other portion or provision of the Contract. Any void or voidable provision shall be deemed severed from the Contract and the balance of the Contract shall be construed and enforced as if the Contract did not contain the particular portion or provision held to be void. The parties further agree to reform the Contract 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 Contract from being held void should a provision which is of the essence of the Contract be determined to be void by a court of competent jurisdiction.

#### 15.4 Governing Law / Venue / Waiver of Jury Trial

This Contract shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Contract will be held in Palm Beach County. **BY ENTERING INTO THIS CONTRACT, CONTRACTOR 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.**

#### 15.5 Maintenance of Records

Contractor will keep adequate records and supporting documentation which concern or reflect the Work hereunder. The records and documentation will be retained by Contractor 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 Contract 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.

#### 16.0 NOT USED

#### 17.0 E-VERIFY

By entering into this Contract, the Contractor 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 contract is renewed after January 1, 2021), and requiring all subcontractors to provide an affidavit attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. Failure to comply will lead to termination of this Contract, or if a subcontractor knowingly violates the statute, the subcontract must be terminated immediately. Any challenge to termination under this provision must be filed in the Circuit Court no later than twenty (20) calendar days after the date of termination. If this Contract is terminated for a violation of the statute by the Contractor, the Contractor may not be awarded a public contract for a period of 1 year after the date of termination. Should Contractor 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 Contract.

#### 18.0 PUBLIC RECORDS

- A. The City of Boca Raton is a public agency subject to Chapter 119, Florida Statutes. This Contract requires the Contractor to provide services and/or materials, and therefore the Contractor shall comply with Section 119.0701, Florida Statutes. Specifically, the Contractor shall:
  - 1. Keep and maintain all public records related to the performance of the Work.
  - 2. Upon request from the City's custodian of public records, provide the City 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 Contract, keep and maintain the public records required by the City to perform the Work. The Contractor 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 City all records that were stored electronically by Contractor, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.
- B. The failure of the Contractor to comply with the provisions set forth in this Section, or to comply with the City request for records, shall constitute a default and breach of this Contract, and the City shall, in its discretion, pursue any and all remedies against the Contractor provided for under this Contract or at law.

**IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS RFP, 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.**

#### **19.0 POLITICAL CAMPAIGNS**

During the term of this Contract, the Contractor, the Contractor's officers and directors, and the Contractor's employees that comprise the members of the relationship team providing the Services to the CITY shall not directly, or indirectly through any person, inclusive of their husbands, wives, fathers, mothers, sons, daughters, brothers, or sisters, be involved in any political campaign for City elective office nor make any financial contribution to any such campaign.

#### **20.0 NOT USED**

#### **21.0 NOT USED**

#### **22.0 FOREIGN GIFTS AND CONTRACTS**

Pursuant to Fla. Stat. §286.101(3), where the amount of the grant or contract is 100,000.00 or more, Contractor shall disclose any current or prior interest of, any contract 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. Contractor represents and warrants it has complied with Fla. Stat. §286.101, it has properly disclosed such interests, contracts, grants or gifts to CITY before execution of this CONTRACT, and it will remain in compliance with Fla. Stat. §286.101 for the duration of this CONTRACT.

#### **23.0 ENTITIES OF FOREIGN COUNTRIES OF CONCERN**

Section 287.138, Florida Statutes, prohibits the CITY from entering in to a Contract 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, CONTRACTOR shall certify compliance with section 287.138, Florida Statutes, by executing the Proposer affidavits regarding Entities of Foreign Countries of Concern, which is included in RFP 2026-006-NP, Attachment C. The City reserves the right to terminate any agreement in which a CONTRACTOR provides a false certification or otherwise violates Section 287.138, Florida Statutes.

#### **24.0 NONCOERCIVE CONDUCT FOR LABOR**

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

#### **25.0 ENTIRE CONTRACT**

This Contract 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 Contract may only be amended or modified by a written document authorized and executed by the Parties, as provided herein.

**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 Contract all as of the day and year first above written.

**CITY OF BOCA RATON**

ATTEST:

\_\_\_\_\_  
Mark Sohaney, City Manager

\_\_\_\_\_  
Mary Siddons, City Clerk  
Approved as to Form and Legal Sufficiency  
for the City

By: \_\_\_\_\_  
Joshua Koehler, City Attorney

Approved by Council on \_\_\_\_\_, 20\_\_\_\_\_

Item \_\_\_\_\_

**CONTRACTOR:**

Attest:

\_\_\_\_\_ By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Corporate Secretary  
(affirm Corporate Seal)

Witness: \_\_\_\_\_ Name: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
Title: \_\_\_\_\_  
President or other duly authorized  
Corporate Officer



**CERTIFICATE OF CORPORATE AUTHORITY**

**2026-006-NP  
Old Floresta Infrastructure Upgrade**

I, \_\_\_\_\_, certify that I am the **Secretary** of the corporation named as Contractor in Contract **2026-006-NP**; that \_\_\_\_\_ who signed the said Contract on behalf of the Contractor, was then \_\_\_\_\_ of said corporation; that I know the seal of said corporation; that said seal has been affixed to this Contract; and that it was so affixed by order of said official of the Corporation; that I know his/her signature, and such signature hereto is genuine; and that he/she signed this Contract by authority of the directors of said Corporation.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Corporate Secretary

(Corporate Seal)

**ACKNOWLEDGEMENT OF CONTRACTOR,  
OF A LIMITED LIABILITY CORPORATION  
OR PARTNERSHIP**

**2026-006-NP  
Old Floresta Infrastructure Upgrade**

State of \_\_\_\_\_ as:

County of \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally came and appeared \_\_\_\_\_, to me known, and known to me to be one of the members of the firm of \_\_\_\_\_ described in and who executed the foregoing instrument and he/she acknowledged to me that he/she executed the same as and for the act and deed of said firm and that he/she is duly authorized to bind such firm.

\_\_\_\_\_

Notary Public

(Seal)

**ACKNOWLEDGMENT OF CONTRACTOR,  
IF AN INDIVIDUAL**

State of \_\_\_\_\_  
as:

County of \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally came and  
appeared \_\_\_\_\_, to me known, and known to be to be  
the person described in and who executed the foregoing instrument and acknowledged that  
he/she executed the same.

\_\_\_\_\_

Notary Public

(Seal)

**ACKNOWLEDGMENT OF CONTRACTOR,  
IF CORPORATION**

**2026-006-NP  
Old Floresta Infrastructure Upgrade**

State of \_\_\_\_\_  
as:

County of \_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, before me personally came and appeared  
\_\_\_\_\_, to me known, who, being by me duly sworn, did depose  
and say that he/she resides at

\_\_\_\_\_  
that he/she is the \_\_\_\_\_

of \_\_\_\_\_

the corporation described in and which executed the foregoing contract; that he knows the seal  
of said corporation; that one of the impressions affixed to said contract is an impression of such  
seal; that he is the proper official of said corporation designated to execute such contract, that  
he/she has authority so to do, that he/she executed same for and in behalf of said corporation,  
and that his/her act is the act and deed of said corporation.

Witness my hand and official notarial seal at \_\_\_\_\_

\_\_\_\_\_  
the day and year above written.

\_\_\_\_\_  
Notary Public

(Seal)

My Commission Expires: \_\_\_\_\_

**CONTRACTOR Affidavit regarding Entities of  
Foreign Countries of Concern**

CONTRACTOR Affidavit regarding Entities of Foreign Countries of Concern  
\_\_\_\_\_ (Name of Entity) is not owned by the government of  
a Foreign Country of Concern, is not organized under the laws of nor has its principal place  
of business in a Foreign Country of Concern, and the government of a Foreign Country of  
Concern does not have a Controlling Interest in the entity.  
Under penalties of perjury, I declare that I have read the foregoing statement and that the  
facts stated in it are true.

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

STATE OF FLORIDA

COUNTY OF

The foregoing instrument was acknowledged before me by means of ☐ physical presence  
or ☐ online notarization, this \_\_\_\_ day of \_\_\_\_\_, 202\_\_\_\_, by (name of person  
acknowledging) as (type of authority, . . . e.g. officer, trustee, attorney in  
fact) for (name of party on behalf of whom instrument was executed) .

\_\_\_\_\_  
Notary Public

State of Florida at Large

My Commission Expires:

My Commission Number:

**Affidavit Attesting to Noncoercive Conduct  
for Labor or Services**

Affidavit Attesting to Noncoercive Conduct for Labor or Services

Nongovernment Entity name: \_\_\_\_\_  
("CONTRACTOR")

CONTRACTOR FEIN: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone number: \_\_\_\_\_ Email Address: \_\_\_\_\_

As a nongovernmental entity executing, renewing, or extending a contract with a government entity, CONTRACTOR is required to provide an affidavit under penalty of perjury attesting that CONTRACTOR does not use coercion for labor or services in accordance with Section 787.06, Florida Statutes.

As defined in Section 787.06(2)(a), coercion means:

1. Using or threatening to use physical force against any person;
2. Restraining, isolating, or confining or threatening to restrain, isolate, or confine any person without lawful authority and against her or his will;
3. Using lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied toward the liquidation of the debt, the length and nature of the labor or service are not respectively limited and defined;
4. Destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of any person;
5. Causing or threatening to cause financial harm to any person;
6. Enticing or luring any person by fraud or deceit; or
7. Providing a controlled substance as outlined in Schedule I or Schedule II of Section 893.03 to any person for the purpose of exploitation of that person.

As a person authorized to sign on behalf of CONTRACTOR, I certify that CONTRACTOR does not use coercion for labor or services in accordance with Section 787.06.

Written Declaration

**Under penalties of perjury, I declare that I have read the foregoing Affidavit and that the facts stated in it are true.**

**Name of CONTRACTOR:** \_\_\_\_\_  
(Firm Name as Registered with their State of origin)

**Authorized Signer:**

Name of Authorized Signer: \_\_\_\_\_

Title of Authorized Signer: \_\_\_\_\_

President or other Authorized Officer/Member/Manager \_\_\_\_\_

Email for Authorized Signer: \_\_\_\_\_

***Authorized Written Signature:*** \_\_\_\_\_

STATE OF FLORIDA

COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_, by \_\_\_\_\_  
\_\_\_\_\_ (name of person executing the  
affidavit) \_\_\_\_\_ (type of authority (e.g. officer, trustee, attorney in  
fact) for \_\_\_\_\_ (name of Provider).

\_\_\_\_\_  
Notary Public  
State of Florida at Large  
My Commission Expires:

## PERFORMANCE BOND

### Know all men by these presents:

That \_\_\_\_\_, a \_\_\_\_\_, (corporation, individual, partnership) of the State of \_\_\_\_\_, as principal, (hereafter called the "CONTRACTOR") AND \_\_\_\_\_, a corporation of the State of \_\_\_\_\_, as SURETY (hereinafter called the "SURETY"), are held and firmly bound unto the City of Boca Raton, a municipal corporation of the State of Florida, as obligee (hereinafter called the "CITY") in the amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) lawful money of the United States of America for the payment of which the CONTRACTOR and the SURETY hereby bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

**WHEREAS**, the CONTRACTOR has by written agreement dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ entered into a contract with the CITY for Old Floresta Infrastructure Upgrade, **2026-006-NP /Project No.: 71-19-009**, in accordance with the DRAWINGS and SPECIFICATIONS prepared by

\_\_\_\_\_(hereinafter called the "ENGINEER") which contract is by this reference made a part hereof (hereinafter called the "CONTRACT DOCUMENTS").

### Now, therefore, the conditions of this obligation are such that:

- A. If the CONTRACTOR shall promptly and faithfully perform said CONTRACT DOCUMENTS; and if the CONTRACTOR shall fully indemnify and save harmless the CITY and its consultants, and each of their officers, agents and employees, and the ENGINEER and its consultants, and each of their directors, agents and employees, from any and all costs and damages which they may suffer by reason of the CONTRACTOR'S failure to do so; and if the CONTRACTOR shall pay the CITY for all losses, damages, expenses, costs, and attorneys' and legal assistant's fees, including appellate proceedings and bankruptcy, and including any liquidated damages or actual damages caused by the delay of performance of CONTRACTOR, that the CITY sustains because of any default by the CONTRACTOR under the CONTRACT DOCUMENTS; and if the CONTRACTOR performs the guarantee and warrantee of all WORK under the CONTRACT DOCUMENTS for the correction period specified in the CONTRACTOR DOCUMENTS; then this obligation shall be null and void; otherwise it shall remain in full force and effect.
- B. Whenever the CONTRACTOR shall be, and is declared by the CITY to be in default under the CONTRACT DOCUMENTS, the CITY having performed the CITY's obligations thereunder, the SURETY may promptly remedy the default, or shall promptly:



- (1) Complete the Work set forth in CONTRACT DOCUMENTS in accordance with its terms and conditions; or
- (2) Pay the CITY any difference between the sum to which the CONTRACTOR would be entitled upon the completion of the CONTRACT DOCUMENTS, and that sum which the CITY may be obliged to pay for the completion of said Work by CONTRACT DOCUMENTS or otherwise, and any damages, legal fees including, appellate, bankruptcy, attorney's fees and legal assistant's fees, and including any liquidated damages or actual damages caused by the delay of performance of CONTRACTOR, which the CITY may sustain on account of such Work, or on account of the failure of the CONTRACTOR to properly perform or execute all of the provisions of the CONTRACT DOCUMENTS; or
- (3) Obtain an RFP or RFPs for submission to the CITY for completing the CONTRACT DOCUMENTS in strict accordance with their terms and conditions, and upon determination by the CITY and the SURETY of the lowest responsible Proposer, arrange for a contract between such Proposer and the CITY and make available as Work progresses (even though there should be a default or a succession of defaults under the CONTRACT DOCUMENTS or CONTRACT DOCUMENTS of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the CONTRACT PRICE; but not exceeding, including other costs and damages for which the SURETY may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the CONTRACT PRICE", as used in this paragraph, shall mean the total amount payable by the CITY to the CONTRACTOR under the CONTRACT DOCUMENTS and any amendments thereto, less the amount properly paid by the CITY to the CONTRACTOR.

C. It is further stipulated, understood and agreed that:

- (1) Any changes in or under the CONTRACT DOCUMENTS, or any documents incident thereto, or the compliance or noncompliance with any formalities in connection with the CONTRACT DOCUMENTS or the changes does not affect the SURETY'S obligations under this Bond.
- (2) The SURETY, for value received, hereby stipulates and agrees that no change in the CONTRACT TIME or CONTRACT PRICE, alteration of or addition to the terms of the CONTRACT DOCUMENTS or to the Work to be performed thereunder or the SPECIFICATIONS applicable thereto shall in any way affect its obligations under this Bond. The SURETY hereby waives notice of any such change in the CONTRACT TIME or CONTRACT PRICE, alterations of or addition to the terms of the CONTRACT DOCUMENTS, or to the Work or to the SPECIFICATIONS applicable thereto.

(3) This obligation shall cover the CORRECTION PERIOD and any guarantees or warranties as required by the CONTRACT DOCUMENTS, or such longer period as may be prescribed by law or by any special guarantee required by the CONTRACT DOCUMENTS.

(4) Any suit under this Bond must be instituted before the expiration of five (5) years from the date on which final payment under the CONTRACT DOCUMENTS is made.

(5) This Bond is intended to comply with provisions of Section 255.05, Florida Statutes, and all terms and conditions of said Statute are incorporated herein by reference thereto. In the event of any conflict, ambiguity, or discrepancy between Section 255.05 of the Florida Statutes and this Bond, the Florida Statutes section 255.05 shall control. No right of action shall accrue on this Bond to or for the use of any person or entity other than the CITY and those persons or corporations provided for by said statute, their heirs, executors, administrators, successors or assigns. All claimants and other parties claiming any interest in this Bond are expressly referred to Section 255.05, including particularly the notice and time limitation provisions of that section.

(6) It is further agreed and understood that if the CITY is required to initiate legal proceedings to recover on this Bond, the CITY may also recover its costs related thereto, including a reasonable amount for its attorney's fees, legal assistants' fees before trial, at trial, on appeal, and in bankruptcy.

(7) Any claim under this Bond may be addressed to:

Name, address and telephone number of SURETY

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Email: \_\_\_\_\_

Name, address and telephone number for agent or  
**representative in Florida**, if different from above

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Email: \_\_\_\_\_

Signed and sealed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

**Witnesses (If Individual)**

**CONTRACTOR: (Print Full Name)**

\_\_\_\_\_  
\_\_\_\_\_

or

\_\_\_\_\_

Corporate Secretary

\_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

(affirm Corporate Seal)

**SURETY Company: (Print Full Name)**

\_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_  
Agent and Attorney-in Fact (Power of Attorney to be attached)

**NOTE:** Date of Bond must not be prior to date of Contract. If Contractor is a Partnership, all general partners must execute bond.

**IMPORTANT:** SURETY companies executing the Performance Bond must appear on the U.S. Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of Florida and be pre-approved by the CITY.

Bond shall be a minimum bond rating of Best's rating of "A" and Best's Financial size category of not less than Class VII.

**Certificate as to Corporate Principal**

I, \_\_\_\_\_, certify that I am the Secretary of the Corporation named as the CONTRACTOR in the foregoing Performance Bond;  
that \_\_\_\_\_, who signed the Bond on behalf of the CONTRACTOR, was then \_\_\_\_\_ of said corporation; that I know his signature thereto is genuine; and that said Bond was duly signed, sealed and attested for and on behalf of said Corporation by authority of its governing body.

\_\_\_\_\_ as Secretary of

\_\_\_\_\_  
(Name of Corporation)

(Corporate Seal)

State of \_\_\_\_\_

County of \_\_\_\_\_

Before me, a Notary Public duly commissioned, qualified and acting, personally appeared \_\_\_\_\_ who is personally known to me or has produced \_\_\_\_\_ as identification, who being by me first duly sworn upon oath, says that he/she is the attorney-in-fact for the \_\_\_\_\_ and that he/she has been authorized by \_\_\_\_\_ to execute the foregoing Performance Bond on behalf of the CONTRACTOR named therein in favor of the CITY OF BOCA RATON.

Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires

Bonded by:

\_\_\_\_\_

\_\_\_\_\_

**End of Section**

## PAYMENT BOND

### Know all men by these presents:

That \_\_\_\_\_, a \_\_\_\_\_, (corporation, individual, partnership) of the State of \_\_\_\_\_, as principal, (hereafter called the "CONTRACTOR") and \_\_\_\_\_, a corporation of the State of \_\_\_\_\_ (hereafter called the "SURETY"), are held and firmly bound unto the City of Boca Raton, a municipal corporation of the State of Florida, as obligees (hereafter called the "CITY"), in the amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_), lawful money of the United States of America, for the payment of which the CONTRACTOR and the SURETY hereby bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

**Whereas**, the CONTRACTOR has by written agreement dated the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, entered into a contract with the CITY for the **Old Floresta Infrastructure Upgrade, 2026-006-NP / Project No.: 71-19-009**, in accordance with the DRAWINGS and \_\_\_\_\_ SPECIFICATIONS \_\_\_\_\_ prepared \_\_\_\_\_ by \_\_\_\_\_

which contract is by reference made a part hereof (hereafter called the 'CONTRACT DOCUMENTS').

**Now, therefore**, the conditions of this obligation are such that, if the CONTRACTOR shall promptly make payment to all claimants, as hereinafter defined, then this obligation shall be void; otherwise, this Bond shall remain in full force and effect, subject to the following conditions:

- A. A claimant is defined as any person supplying the CONTRACTOR with labor, material or supplies, used directly or indirectly by the CONTRACTOR or any subcontractor in the prosecution of the Work provided for in the CONTRACT DOCUMENTS and is further defined in Section 255.05(1) of the Florida Statutes.
- B. The above named CONTRACTOR and SURETY hereby jointly and severally agree with the CITY that any claimant who has not been paid in full before the expiration of a period of ninety (90) days after performance of the labor or after complete delivery of the materials or supplies by such claimant, may sue on this Bond for the use of sums as may be justly due claimant, and have execution thereon. The CITY shall not be liable for the payment of any costs or expenses of any such suit.
- C. No suit or action may be commenced hereunder by any claimant:

(1) Unless the claimant, except a laborer or one having a direct contract with the CONTRACTOR, within forty-five (45) days after beginning to furnish labor, materials or supplies for the prosecution of the Work, furnishes the CONTRACTOR with a notice that he intends to look to this bond for protection.

(2) Unless the Claimant, other than one having a direct contract with the CONTRACTOR, within ninety (90) days after such Claimant's performance of the labor or complete delivery of the materials or supplies, delivers to the CONTRACTOR and to the SURETY written notice of the performance of such labor or delivery of such material or supplies and the nonpayment therefor.

(3) After the expiration of one (1) year from the date of completion of performance of the labor or completion of delivery of the materials or supplies; it being understood, however, that if any limitation embodied in this Bond is prohibited by any law controlling the construction hereof, such limitations shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

- D. The CONTRACTOR and the SURETY, jointly and severally, shall pay the CITY for all losses, damages, expenses, or costs and attorneys' fees, including appellate and bankruptcy proceedings, and including any liquidated damages or actual damages caused by the delay of performance of CONTRACTOR, caused by any default of the CONTRACTOR or the SURETY of their obligations hereunder, including but not limited to, any sum which the CITY may be compelled to pay because of any lien for labor or materials furnished for any Work included in or covered by the CONTRACT DOCUMENTS.
- E. The SURETY, for value received, hereby stipulates and agrees that no change in the CONTRACT TIME or CONTRACT PRICE, alteration of or addition to the terms of the CONTRACT DOCUMENTS or to the Work to be performed thereunder or the SPECIFICATIONS applicable thereto shall in any way affect its obligations under this Bond. The SURETY hereby waives notice of any such change in the CONTRACT TIME or CONTRACT PRICE, alterations of or addition to the terms of the CONTRACT DOCUMENTS, or to the Work or to the SPECIFICATIONS applicable thereto.
- F. This obligation shall cover the correction period or guarantee period as required by the CONTRACT DOCUMENTS, or such longer period as may be prescribed by law or by any special guarantee required by the CONTRACT DOCUMENTS.
- G. No final settlement between the CITY and the CONTRACTOR shall abridge the rights of any beneficiary hereunder whose claim may be unsatisfied.

H. This Bond is intended to comply with the provisions of Section 255.05, Florida Statutes, and all terms and conditions of said Statutes are incorporated herein by reference thereto. In the event of any conflict, ambiguity or discrepancy between Section 255.05 of the Florida Statutes and this Bond, the Florida Statutes section 255.05 shall control. No right of action shall accrue on this Bond to or for the use of any person or corporation other than the CITY and those persons or corporations provided for by said Statute, their heirs, executors, administrators, successors or assigns. All claimants and other parties claiming any interest in this Bond are expressly referred to Section 255.05, including particularly the notice and time limitation provisions of that section.

I. It is further agreed and understood that if the CITY is required to initiate legal proceedings to recover on this Bond, the CITY may also recover its costs related thereto, including a reasonable amount for attorneys' fees, legal assistants' fees, before trial, at trial, on appeal, and in any bankruptcy proceeding.

J. Any claim under this Bond may be addressed to:

Name, address and telephone number of SURETY

---

---

---

---

Email: \_\_\_\_\_

Name, address and telephone number for agent or representative in Florida, if different from above

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---

---

---

Email: \_\_\_\_\_

Signed and sealed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

**Witnesses (If Individual)**

**CONTRACTOR: (Print Full Name)**

\_\_\_\_\_

\_\_\_\_\_

or

\_\_\_\_\_

Corporate Secretary

\_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

(affirm Corporate Seal)

**SURETY Company: (Print Full Name)**

\_\_\_\_\_

\_\_\_\_\_

By: \_\_\_\_\_  
Agent and Attorney-in Fact (Power of Attorney to be attached)

**NOTE:** Date of Bond must not be prior to date of Contract. If Contractor is a Partnership, all general partners must execute bond.

**IMPORTANT:** SURETY companies executing the Payment Bond must appear on the U.S. Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of Florida and be pre-approved by the CITY.

Bond shall be a minimum bond rating of Best's rating of "A" and Best's Financial size category of not less than Class VII.



**Certificate as to Corporate Principal**

I, \_\_\_\_\_, certify that I am the Secretary of the Corporation named as the CONTRACTOR in the foregoing Payment Bond; that \_\_\_\_\_, who signed the Bond on behalf of the CONTRACTOR, was then \_\_\_\_\_ of said corporation; that I know his signature thereto is genuine; and that said Bond was duly signed, sealed and attested for and on behalf of said Corporation by authority of its governing body.

\_\_\_\_\_ as Secretary of

\_\_\_\_\_  
(Name of Corporation)

(Corporate Seal)

State of \_\_\_\_\_

County of \_\_\_\_\_

Before me, a Notary Public duly commissioned, qualified and acting, personally appeared

\_\_\_\_\_ who is personally known to me or has produced

\_\_\_\_\_ as identification, who being by me first duly sworn upon oath, says

that he/she is the attorney-in-fact for the \_\_\_\_\_ and that he/she has

been authorized by \_\_\_\_\_ to execute the foregoing Payment Bond on

behalf of the CONTRACTOR named therein in favor of the CITY OF BOCA RATON.

Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires

Bonded by:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**INSURANCE CERTIFICATES**

(INSERTED AT TIME OF CONTRACT)

**FINAL RECEIPT**

**2026-006-NP  
Old Floresta Infrastructure Upgrade**

Received this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, of \_\_\_\_\_ as full and final payment of the cost of all improvements provided for in the foregoing contract the sum of \_\_\_\_\_ Dollars and \_\_\_\_\_ Cents, (\$\_\_\_\_\_), in cash, being the full amount accruing to the undersigned by virtue of said contract, said cash covering and including full payment for all extra work and material furnished by the undersigned in the construction of said improvements, and all incidentals thereto, and the undersigned hereby releases the said \_\_\_\_\_ from all claims whatsoever growing out of said contract.

These presents are to certify that all persons doing Work upon or furnishing materials or supplies for the said improvements under the foregoing contract have been paid in full.

The undersigned further certifies that all taxes imposed by Chapter 212, Florida Statutes (Sales and Use Tax Act), as amended, have been paid and discharged.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## **ADDENDUMS**

(INSERTED AT TIME OF CONTRACT)

## SPECIAL PROVISIONS

### 2026-006-NP Old Floresta Infrastructure Upgrade

**1. CONTRACTOR REGISTRATION WITH THE CITY**

All awarded Contractors shall register with the City of Boca Raton Business Tax Office prior to performing the Work, no City fee required.

**2. BUSINESS TAX RECEIPTS**

All businesses in the City of Boca Raton are required to obtain a City of Boca Raton Business Tax Receipt on an annual basis in addition to other one-time fees that may be incurred (application fee, certificate of use fee, code inspection fee, fire inspection fee). For further information regarding business tax fees, call (561) 393-7937. All other **businesses not located within the City of Boca Raton** must show proof of a current Business Tax Receipt for their business location, unless exempt. A copy of the receipt or proof of exemption shall be submitted prior to awarding the RFP.

**3. PERMITS**

Permits to be secured by the Contractor for this project are as follows:

1. City of Boca Raton Building Permit(s) per Chapter 19 of City Municipal Code
2. SFWMD Dewatering Permit (Permit Fee \$500.00) (A Dewatering Short Term General Water Use permit is required if the dewatering time frame is less than a year, and the daily volume is less than 10 MGD and the total dewatering volume is less than 1,800 million gallons.)
3. NPDES Permit (Permit Fee \$250.00)

The City of Boca Raton permit fees for the aforementioned permits, will be waived by the City. However, fines and penalties will be assessed based upon the standard fee structure.

Permits secured by the City that Contractor shall abide by for this project are as follows:

1. Florida Department of Health Permit
2. Florida Department of Environmental Protection Notice of Intent to use General Permit
3. Lake Worth Drainage District Permit

**4. PERCENTAGE OF WORK BY CONTRACTOR**

The Contractor shall perform on the site and with the Contractor's own organization, work equivalent to not less than twenty percent 50% of the total dollar value of the Work to be performed under this Contract unless changed in writing by mutual agreement between the Contractor and the Owner. Minimum Work percentage shall be defined as all components of the job with the exception of mobilization, administration, overhead and profit and will be evaluated on dollar value of the Work performed.

**5. DOMESTIC MATERIALS**

Contractor shall endeavor to make maximum use of domestic construction materials.

**6. SPECIFICATIONS**

The technical specifications do not include proprietary, exclusionary or discriminatory requirements other than those based upon performance, unless such requirements are necessary to test or demonstrate a specific thing or to provide for necessary interchangeability of parts and equipment. Frequently, for demonstrative purposes, at least one brand name or trade name is listed and is followed by the words "or equal". Omission of the words "or equal" does not preclude the City's right to accept an alternate item which meets the full requirements of the specified item. The City, or its authorized representative, further reserves the unqualified right, to determine whether any particular item or items of material, or equipment whatsoever, is an approved equal, and reserves the unqualified right to a final decision regarding the approval or rejection of the same as further detailed in the conditions of Contract.

**7. HURRICANE PREPAREDNESS PLAN**

- A. Within thirty (30) days of the date of Notice to Proceed, the Contractor shall submit to the Engineer and Owner a Hurricane Preparedness Plan. The plan should outline the necessary measures which the Contractor proposes to perform at no additional cost to the Owner in case of a hurricane warning.
- B. In the event of inclement weather, or whenever Engineer shall direct; Contractor will, and will cause Subcontractors to carefully protect the Work and materials against damage or injury from the weather. If, in the opinion of Engineer, any portion of Work or materials shall have been damaged or injured by reason of failure on the part of Contractor or any Subcontractors to so protect the Work, such Work and materials shall be removed and replaced at the expense of Contractor.

**8. RELOCATIONS**

The Contractor shall be responsible for the relocation of structures, including but not limited to light poles, control panels, signs, sign poles, fences, piping, irrigation, conduits and drains that interfere with the positioning of the Work as set out on the Drawings. The cost of all such relocations shall be included in the RFP for the project and shall not result in any additional cost to the Owner.

**9. OBSTRUCTIONS**

- A. The attention of the Contractor is drawn to the fact that during excavation at the Project site, the possibility exists of the Contractor encountering various water, electrical, or other lines not shown on the Drawings. The Contractor shall exercise extreme care before and during excavation to locate and flag these lines so as to avoid damage to the existing lines. Should damage occur to an existing line, the Contractor shall repair the line at no cost to the Owner.
- B. It is the responsibility of the Contractor to ensure that all utility or other poles, the stability of which may be endangered by the close proximity of excavation, are temporarily stayed in position while work proceeds in the vicinity of the pole and that the utility or other companies concerned be given reasonable notice of any such excavation by the Contractor.

**10. MAINTENANCE OF EXISTING WATER FACILITIES OPERATION**

- A. The Contractor shall fully cooperate at all times with the Owner in order to maintain the operation of the existing facilities with the least amount of interference and interruption possible. Continuous service, public health and safety considerations shall exceed all others and the Contractor's schedule, plans and work shall at all times be subject to alteration and revision if necessary for above considerations.
- B. The Engineer and Owner reserve the right to require the Contractor to work twenty-four (24) hours per day in all cases, where, in their opinion, interference with operation of the system may result.
- C. In no case will the Contractor be permitted to interfere with the existing system until all materials, supplies, equipment, tools and incidentals necessary to complete the interfering portion of the work are on the site.

**11. EXISTING UTILITY PROTECTION**

Existing utilities have been shown on the Drawings insofar as information is reasonably available; however, it will be the Contractor's responsibility to preserve all existing utilities whether shown on the Plans or not. If utility conflicts are encountered by the Contractor during construction, Contractor shall provide sufficient notice to the Owner as further detailed in the General Conditions, Article 41 and 42. Any delays ensuing from this damage will be considered as inexcusable.

**12. INSTALLATION OF EQUIPMENT**

All wedges, shims, filling pieces, keys, packing, red or white lead grout, or other materials necessary to properly align, level, and secure apparatus in place shall be furnished by the Contractor. All parts intended to be plumb or level must be proven exactly so. Any grinding necessary to bring parts to proper bearing after erection shall be done at the expense of the Contractor.

**13. DISINFECTION**

- A. The Contractor shall clean, disinfect and bacteriologically test and clear in accordance with Chapters 62-550, 62-555, and 62-560 of the Florida Administrative Code (FAC) all water supply facilities affected by this project which shall come into contact with raw water, water being treated or treated water prior to placing the facility in operation. The above statement shall apply to both new facilities installed, and existing facilities which are to be modified.
- B. The Contractor shall employ a disinfection method approved by the Engineer, the Owner, and the local Health Department, and shall fully satisfy the Owner that adequate disinfection has been achieved prior to placing a facility on-line.
- C. The cost of all disinfection work shall be included in the prices quoted in the Proposal. The Owner shall pay for laboratory cost of initial bacteriological clearance test. Contractor shall pay for any retesting required due to failed initial test.

**14. DAMAGE ON ACCOUNT OF HIGH WATER**

Contractor shall hold himself responsible for all damage done to his work by heavy rains or floods and he shall take all reasonable precautions to provide against damages by building

such temporary dikes, channels, or shoring to carry off storm water as the nature of the work may require.

**15. EMERGENCY PHONE NUMBERS AND ACCIDENT REPORTS**

- A. Emergency phone numbers (fire, medical, police) shall be posted at the Contractor's phone and its locations known to all.
- B. Accidents shall be reported immediately to the Engineer by messenger or phone as further detailed in the General Conditions Article 51.
- C. All accidents shall be documented and a fully detailed written report submitted to the Engineer as soon as possible after each accident.

**16. TRESPASS ON ADJACENT PROPERTY**

Contractors/Subcontractors/Materialmen involved in this project shall not trespass on property adjacent to the work site of this contract. Should trespass occur, all resultant damages shall be paid by the Contractor. Claims of damage made to the Owner will be relayed to the Contractor for resolution. The Owner reserves the right to withhold from the final payment due to the Contractor an amount of money equal to twice the estimated damage amount until the resolution of the claim by the Contractor and the Claimant.



**GENERAL CONDITIONS  
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PROJECT NO.: 71-19-009  
Old Floresta Infrastructure Upgrades**

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<b>GENERAL CONDITIONS</b>
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**BID NO.: 2026-006-NP**  
**PROJECT NO.: 71-19-009**  
**Old Floresta Infrastructure Upgrades**

**1. DEFINITIONS**

The following words and expressions, shall, wherever they appear in the Contract Documents, be construed as follows, unless a different meaning is clear from the context in which they are used:

For purposes of the Contract Documents, reference to one gender shall include the other, use of the plural shall include the singular, and use of the singular shall include the plural.

**Addendum/ Addenda:** A written and or graphic document issued by the City prior to the opening of the Bid, which modifies or interprets the Bid documents by additions, deletions, clarifications, or corrections or other type of modifications. Addenda will become part of the Contract Documents when the Contract is executed. Bidders are instructed to acknowledge each Addenda in their Bid response.

**Bid:** A complete and properly signed offer to do the Work, or designated portion thereof, for the sums stipulated therein, submitted in accordance with the Bid documents.

**Bidder:** One who submits a Bid directly to the City.

**Bid Security:** A form of risk insurance, typically in the form of bonds.

**Change Order:** A written order, executed by the Owner and Contractor, authorizing an addition, deletion or revision to the Work, or an adjustment in the Contract Price or the Contract Time after the execution of the Contract.

**City or Owner:** The City of Boca Raton, Florida.

**Completion Date:** The date on which all Work is complete in all respects, including cleanup, other than guarantee and maintenance Work defined in the specifications. The Completion Date shall be as noted in the Notice to Proceed.

**Contractor:** The person or entity who is identified in the Contract and is referred to throughout the Contract Documents. Contractor may mean the Contractor or his authorized representatives, as the context requires.

**Contract:** The agreement between the Contractor and the City for the completion of the Work.

**Contract Documents:** The documents that pertain to the Work and the Contract, consisting of, but not limited to, the following documents:

1. RFP 2026-006-NP
  - i. Section I – General Information
  - ii. Section II – Statement of Work
  - iii. Section III – Evaluation of Proposals

- iv. Section IV – Instructions for Preparing Proposal
  - v. Attachment A: Proposal Response Form
  - vi. Attachment B: Reference Form
  - vii. Attachment C: RFP Forms and Certificates
  - viii. Attachment D: Minimum Qualifications Submittal
  - ix. Attachment E: Price Proposal Form
2. The Contract and forms;
  3. Special Provisions;
  4. General Conditions;
  5. Technical Specifications;
  6. Addenda;
  7. Drawings/Exhibits;
  8. Notice of Award;
  9. Notice(s) to Proceed;
  10. Documentation submitted by Engineer following the Notice to Proceed;
  11. Project Forms;
  12. Close Out Forms;
  13. Change Orders, Field Orders, Construction Change Orders;
  14. All provisions required by law to be inserted in this Contract, whether actually inserted or not;
  15. Written Instructions from the Engineer; and
  16. Any additional documents the submission of which is required by this Project.

**Contract Price:** The amount agreed by the Contractor and Owner as the compensation to be paid to the Contractor by Owner for completing the Work.

**Contract Time:** The number of days stated in the Contract and the Notice to Proceed to: (i) achieve specific construction milestones, if any; (ii) achieve Substantial Completion; and/or (iii) achieve Final Completion.

**Construction Change Directive (CCD):** A written order from the Owner to the Contractor authorizing an addition, deletion or revision to the Work after the date of the Contract which may also be referred to as a Work Directive Change (WDC).

**Critical Path:** The sequence of events and activities (each of a particular duration) that must be completed on schedule for the entire project to be completed on schedule.

**Day or Days:** A calendar day or calendar days. A calendar day begins at 12:00:00 midnight and ends 24 hours later at 11:59:59 p.m.

**Drawings:** The drawings, or reproductions thereof, prepared by the Engineer, which show the locations, character, dimensions, and details of the Work to be done under this Contract. All working drawings submitted by the Contractor and approved by the Engineer become part of the Drawings.

**Engineer:** Robert Harrison Barron, P.E., Holtz Consulting Engineers, Inc., 270 South Central Boulevard, Suite 207, Jupiter, FL 33458

**Final Completion:** The entire completed construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Final Completion includes, and is the result of, performing or providing all labor, services, and documentation

necessary to produce such construction, and furnishing, installing, and incorporating all materials and equipment into such construction, all as required by the Contract Documents.

**Final Completion Date:** The date on which all Work is complete in all respects and no Work remains, including completion of all guarantee Work all maintenance Work and all service contract Work, and the Work is fully accepted by the City.

**Notice of Award:** The written notice by City to the Successful Bidder stating that upon compliance by the Successful Bidder with the conditions precedent enumerated therein, within the time period specified, the City will sign and deliver the Contract.

**Notice to Proceed:** A written notice executed by the Owner, or their agent, which shall designate the date upon which the Work shall commence, the Contract Time, and the Final Completion Date.

**Project:** The total construction of the Work to be provided as defined in the Contract Documents.

**Site:** The area upon which, or in which, the Contractor's operations are carried on, and such other areas adjacent thereto, or not adjacent thereto, as may be designated as such by the Engineer or Owner.

**Specifications:** The portion of the Contract Documents consisting of the written requirements for materials, equipment, construction systems, standards and workmanship for the Work, and performance of related services, of which may also be referred to as Technical Specifications.

**Subcontractor:** Any individual, partnership or corporation other than actual employees of the Contractor, who or which contracts with the Contractor to furnish, or actually furnishes labor, materials, and/or equipment at the Site.

**Substantial Completion:** The time at which the Work (or specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or specified portion part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" as applied to all or part of the Work refer to Substantial Completion thereof.

**Substantial Completion Date:** The date on which the Work (or specified part thereof), in the opinion of the Engineer, is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified portion thereof) can be utilized for the purpose for which it was intended.

**Successful Bidder:** The Bidder to whom City awards or expects to award the Contract.

**Surety/Sureties:** Any corporation that executes, the Contractor's Payment Bond and Performance Bond or Public Construction Bond securing the payment and performance of this Contract.

**Work:** The construction and services required by the Contract Documents and includes all labor, materials, equipment, and services provided by the Contractor to fulfill the Contractor's obligations.

## **2. CONTRACTOR'S RESPONSIBILITY**

A. The Contractor expressly undertakes at their own expense:

1. Contractor shall so conduct its operations as not to damage any other property. If facilities are closed, obstructed, damaged or rendered unsafe by Contractor's operations, Contractor shall, at its own expense, make such repairs and provide temporary guards, lights and other signals as necessary or required for safety and as will be acceptable to Owner;
2. To store their apparatus, materials, supplies and equipment in such orderly fashion at the Site of the Work so that they will not interfere with the progress of the Contractor's Work, the work of any other contractors, or the use or operation of areas adjoining the Site;
3. To place upon the Site, or any part thereof, only such materials and equipment necessary to Contractor's Work, so as to maintain the safety of the Site;
4. To frequently clean up all refuse, rubbish, scrap materials, and debris caused by operations of the Contractor or Subcontractors, so that at all times the Site shall present a neat, orderly, and workmanlike appearance;
5. To effect all curing, repair, fitting or patching or replacement of the Work required to make the same conform to the Drawings and Specifications and, except with the consent of the Engineer and the Owner, not to alter the work of any other contractor;
6. To adhere to, and abide by, Florida Statutes, Title XXXIII Regulation of Trade, Commerce, Investments, And Solicitation – Chapter 556 Underground Facility Damage Prevention and Safety Act. The Contractor must also keep abreast of any changes, modifications, and amendments that are made to this and related statutes;
7. To assure that their personnel, and personnel of all Subcontractors, conform with and adhere to all Owner required security procedures and protocols during construction; and
8. To, at all times, safely guard the Owner's property from injury or loss caused by Contractor's Work in connection with this Contract.

B. Contractor shall accept full responsibility for the Work until Final Completion. Contractor shall protect the Work against all loss or damage sustained during the progress of the Work, and promptly repair any damage done and replace any loss from any cause whatsoever.

C. Weather Conditions. In the event of a temporary suspension of Work due to inclement weather, or whenever the Engineer shall direct, the Contractor will, and will cause his Subcontractor(s) to, carefully protect the Work and all materials from damage due to the weather. If the Engineer determines, in his/her sole discretion, that any Work or materials was damaged by Contractor's (or any of his Subcontractors) actions or inactions, such Work or materials shall be removed, if necessary, and replaced at the sole expense of Contractor.

- D. Upon the occurrence of an emergency affecting the safety or protection of; persons, the Work, property at the Site, or property adjacent thereto, Contractor, without special instruction or authorization from the Owner, is obligated to act to prevent damage, injury, or loss. Contractor shall give the Engineer and Owner prompt written notice of any changes in the Work or deviations from the Contract Documents caused thereby.

Where Contractor has not taken action, but has notified the Engineer of an emergency or damage to the Work or any adjoining property, Contractor shall act as instructed or authorized by the Engineer.

The amount of reimbursement claimed by Contractor resulting from any emergency action shall be determined in the manner provided in Article 38 of the General Conditions, Extra Work.

- E. Site Restoration: The Contractor shall remove all excess material and shall clean up and restore the Site to its original condition or better. All damage, as a result of Work under this Contract, done to; existing structures, paved or graveled areas, driveways, curbs and gutters, sidewalks, shrubbery, grass, trees, utility poles, utility pipelines, conduits, drains, catch basins, and including all features and improvements not specifically named herein, shall be repaired and restored to a condition acceptable to the Engineer and Owner.
- F. Liability of Contractor: All damage, injury, or loss to any property caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts any of them may be liable).
- G. The Contractor shall not discriminate on the basis of race, color, national origin, sex, age, disability, religion, or family status with respect to the Work, which shall also include the selection and retention of subcontractors and the procurement of materials and lease of equipment.
- H. Any Work performed by Contractor without proper authorization is performed at Contractor's own risk, and Owner shall have no obligation to compensate Contractor for such work.

### **3. AUTHORIZED REPRESENTATIVES / SUPERINTENDENT**

At the preconstruction conference, Contractor shall provide the names and resumes of key personnel for the Work, including an Authorized Representative as defined below, to Owner for review and approval. Contractor shall replace any personnel deemed to be unacceptable by the Owner. Contractor shall keep Owner informed of any subsequent changes in the staffing of the foregoing.

- A. Contractor Authorized Representative. Contractor shall designate a competent, authorized representative, to represent and act for Contractor and shall inform Owner in writing, of the name and address of such representative together with a clear definition of the scope of his/her authority to represent and act for Contractor and shall

specify any and all limitations of such authority. Such representative shall be present or duly represented at the Site of Work at all times when work is actually in progress.

When the Contractor's Authorized Representative is not present on the Site, orders will be given to the foremen/forewomen or superintendents who may have immediate charge of the Work, and shall be by them received and strictly obeyed.

During periods when Work is suspended, arrangements for an authorized representative acceptable to Owner shall be made for any emergency work which may be required. All notices, determinations, instructions and other communications given to the Authorized Representatives of the Contractor shall be binding upon Contractor. Nothing contained herein shall be construed as modifying the Contractor's duty of supervision and fiscal management as provided for by Florida law.

- B. Approval of Owner and Engineer. Contractor's Authorized Representative, Qualifying Agents, Project Managers, Superintendents and Supervisors are all subject to prior and continuous approval of the Owner and Engineer. If, at any time during the term of the Contract, any individual performing any of the positions named above, is, for any reason, unacceptable to the Owner and Engineer, Contractor shall replace the unacceptable personnel with personnel acceptable to the Owner and Engineer.
- C. Owner Authorized Representative. Owner shall designate an authorized representative who will have limited authority to act for Owner. Owner will notify Contractor in writing of the name of such representative(s).

Owner has the right to assign various responsibilities of the Owner to the Engineer, and can do so at any time during the duration of the Contract with written notice to Contractor. The Engineer will provide answers to Requests for Information ("RFIs"), questions regarding the Drawings and Specifications, issue Field Orders and Construction Change Directives and other related duties. Contractor agrees to cooperate with the Engineer.

#### **4. SUBCONTRACTORS**

- A. Contractor may utilize the services of Subcontractors, provided however, Contractor shall perform the minimum percentage of Work as identified in the Special Provisions and/or Technical Specifications. Contractor shall give close attention to the Work completed by Subcontractors.
- B. Contractor, as soon as practicable after the award of the Bid and before the Owner shall make any partial payments to Contractor, shall furnish to the Engineer in writing for acceptance by the Owner and Engineer, a list of the names of the subcontractors proposed for the principal portions of the Work. The Engineer shall promptly notify Contractor in writing if either the Owner or Engineer, after due investigation, has an objection to any Subcontractor on such list and does not accept that Subcontractor. Failure of the Owner or Engineer to make objection to any Subcontractor on the list within two weeks of the date when the written list of subcontractors was received by the Engineer shall constitute acceptance of such subcontractor(s). After acceptance, no Subcontractor shall be changed without the written approval of the Owner and Engineer.



- C. Contractor shall be as fully responsible to the Owner for the acts and omissions of his/her Subcontractors, and of persons either directly or indirectly employed by them, as Contractor is for the acts and omissions of persons directly employed by Contractor.
- D. Contractor shall cause appropriate provisions to be inserted in all subcontracts, to bind Subcontractors to the Contractor for and under the terms of the General Conditions and other Contract Documents, as applicable to the Work of Subcontractors, and to give the Contractor the same power to terminate any subcontract that the Owner may exercise over the Contractor under the provisions of the Contract Documents.
- E. Contractor shall ensure that all Subcontractors have and maintain proper insurance for the portion of the Work that they will be completing, as well as all workers' compensation and other insurance.

## **5. EMPLOYEES**

All employees of Contractor shall have; the necessary knowledge and skills, and the required certifications or license for the tasks that they perform.

Any employee of Contractor on the Site who appears to the Engineer or Owner to be disorderly, insubordinate, unfaithful, or incompetent, shall upon the order of Engineer, be at once removed from the Site and not again employed on any part of the Work. Any interference with, or abusive or threatening conduct toward the Engineer, Engineer's employees, Owner, or Owners employees by the Contractor or Contractor's employees, subcontractors, or agents, shall be grounds and authority for the Owner to terminate the Contract.

No employees (or independent contractors) of the Contractor or Subcontractor shall be considered to be employees of the Owner. Contractor understands and agrees that their employees (and independent contractors) shall have no claim against the Owner as to pension, workers' compensation, unemployment compensation, federal income withholding, insurance, salary, wages or other employees' rights or privileges granted by operation of law.

## **6. PROTECTION OF WORK AND MATERIALS**

Facilities for handling of material and inspecting the Work shall at all times be furnished by the Contractor, and all costs due to delays in handling of materials, equipment, or supplies, and resulting loss or damage, shall be at the expense of the Contractor. Contractor shall provide suitable and adequate storage for materials and equipment during the progress of the Work and be responsible for any loss or damage to the materials, equipment, and supplies furnished under other contracts, as well as those furnished by Contractor, until Final Completion. In the event any such materials, equipment and supplies are lost, stolen, damaged or destroyed prior to final inspection and acceptance, Contractor shall replace same without cost to the Owner.

## **7. ROYALTIES, PATENTS AND INDEMNITY**

- A. If the Contractor uses any design, device, or materials, covered by letters, patent or copyright, Contractor shall provide for such use by suitable agreement with the owner of such patented or copyrighted design, device, or material. Without exception, the Contract prices shall include all royalties or costs arising from the use of such design, device, or materials, in any way involved in the Work.

- B. License and/or Royalty Fees for the use of a process, which is authorized and incorporated into the Project, must be paid to the holder of the patent, or the authorized licensee, directly by Contractor and the cost for such fees shall be included in Contract Price.
- C. Contractor and/or its Surety shall hold and save the Owner and its officers, agents, servants, and employees harmless from liability of any nature or kind, including cost and expenses for, or on account of, any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the contract, including its use by the Owner, unless otherwise specifically stipulated in the Contract Documents.
- (D) Contractor and/or its Sureties shall defend, indemnify and save harmless the Owner, its officials and those working on the project on the Owner's behalf from any and all claims for infringement by reason of the use of such patented or copyrighted design, device or materials or any trademark or copyright in connection with Work agreed to be performed under this Contract and shall indemnify the Owner for any cost, expense or damage, including attorneys and appellate fees, which it may be obliged to pay by reason of such infringement at any time during the prosecution of the Work or after completion of the Work. This provision shall continue indefinitely and survive the cancellation, termination, expiration, lapse or suspension of the Contract.

## **8. INSURANCE**

Contractor (and Subcontractors) shall procure and maintain all insurance as set out in, and as required by, the Contract Documents.

## **9. SALES TAX**

Contractor shall understand the requirements of the State of Florida pertaining to the exemption from state sales tax as it may apply to the Owner and apply the exemption of sales tax to the procurement of materials only as appropriate.

## **10. CONTINUING OBLIGATION**

Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. Neither recommendation of any progress or final payment by the Engineer and/or Owner, nor the issuance of a Certificate of Substantial Completion, nor any payment by Owner to Contractor under the Contract Documents, nor any use of the Work or any part thereof by the Owner, nor any act of acceptance by the Owner, nor any failure to do so, nor any correction of defective Work by the Owner shall constitute an acceptance of Work not in accordance with the Contract Documents or a release of the Contractor's obligation to perform the Work in accordance with the Contract Documents.

## **11. TIMES/DAYS OF WORK**

- A. Unless otherwise provided for in the Contract Documents, or approved by the Engineer and the Owner, Work may be only prosecuted between the hours of 7:00 A.M. and 5:00 P.M., Monday through Friday.

- B. Weekends, Owner Observed Holidays, or hours outside the approved work hours (7am-5pm).

If Contractor wishes to perform any portion of the Work on a Weekend or Owner Observed Holiday, Contractor shall first obtain written permission from the Engineer, and shall notify him/her each time in advance, giving him/her ample time in which to procure an Engineer and/or Inspector for the Work, if necessary. Contractor is fully responsible for reimbursement of the Engineer's and/or Owner's cost for inspection time beyond eight hours per day or forty hours per week.

## **12. TIME OF STARTING WORK**

The Work shall be actively begun within ten (10) calendar days after the date of commencement indicated in the Notice to Proceed. The Work shall be carried on regularly and uninterruptedly with sufficient force to ensure its completion within the time limit set out in the Contract.

## **13. PROJECT SCHEDULE/SCHEDULE OF VALUES**

Within fourteen (14) days after the Notice to Proceed is issued by the Owner, the Contractor shall prepare and submit to the Engineer a project schedule and schedule of values for review. Once agreed to by the Engineer, the schedule of values, shall be used only as the basis for Contractor's applications for payment. Contractor shall comply with Section 01300, Submittals of the Technical Specifications.

The project schedule is to show in detail a complete sequence of construction by activity, and show the beginning and completion of each major element of the construction. An updated schedule, if revised since last payment request, is to be submitted with each application for payment. Contractor is to comply with Section 01310, Construction Schedules, of the Technical Specifications.

The schedule is to include the Critical Path for the time required for ordering, manufacturing and delivery of all materials or equipment to complete the Work on time.

## **14. CONTRACT TIME / EXTENSION OF TIME/ NO DAMAGES FOR DELAY**

Time is an essential condition of the Contract. All Work shall be completed within the Contract Time and on or prior to the Completion Date.

- A. Contract Time

The Contract Time shall be computed to exclude the first day and include the Completion Date. If the Completion Date, or other period of time included in the Contract Documents, falls on a Saturday or Sunday or on an Owner-observed holiday, such day will be omitted from the computation. Contract time shall be calculated based on calendar days.

- B. Change of Contract Time/Extension of Time

The Contract Time may only be changed by a Change Order executed by Contractor and the Owner.

If the Contractor's performance of this Contract is delayed, which delay is beyond the reasonable control and without the fault or negligence of the Contractor or its Subcontractors, or by changes ordered in the Work, and in either event where such delay or change in the Work impacts the Critical Path, then the Contract Time may be extended by Change Order as determined by the Owner.

Any claim for an adjustment in the Contract Time shall be based on written notice submitted by the Contractor to the Engineer in accordance with the provisions contained within the Section 01153 – Change Order Procedures, and Section 01310 – Construction Schedules, in the Technical Specifications.

Such claim shall be submitted by the Contractor to the Owner within seven (7) days of the occurrence of the event giving rise to the claim, and shall include the amount of time caused by the hindrance or delay and shall specify the reason for the delay or hindrance. The Contractor's failure to provide such information shall constitute a waiver of the claim by the Contractor and a denial of any time extension for change in the Work. Further, upon execution by the Owner of any Change Order, that Change Order shall constitute a complete waiver by Contractor of all claims for additional money beyond what is contained in the Change Order, if any, or for any greater extension of time beyond what is contained in the Change Order, if any, related to the Work, or any Work impacted by the change.

Contractor shall not be entitled to an adjustment Contract Time for delays within the control of Contractor. Delays attributable to and within the control of a Subcontractor or supplier shall be deemed to be delays within the control of Contractor.

Any change in the Contract Time resulting from any such claim shall be incorporated in a Change Order.

C. No Damage for Delays/Exclusive Remedy

1. The Contractor shall not be entitled to any claim for damages for any hindrances or delay from any cause whatsoever, but such hindrance or delay may entitle Contractor to an extension of the Contract Time.
2. The Contractor shall not be entitled to, and hereby waives, any claim for any direct or indirect financial damages or losses for any delay in the completion of the Work for any reason, whether such delay be avoidable or unavoidable, including, but not limited to, extended corporate overhead impact, extended project overhead impacts, insurance costs, loss of bonding capacity, project support services, mobilization or demobilization, loss of profits on alternate or unperformed contracts, or by whatever other label or legal concept or theory and types of names or labels or basis such claims may have, or any business damages or losses of whatever type or nature for any delay for any reason. Contractor hereby waives any right to make any such claim or claims.
3. The Contractor hereby acknowledges and agrees that the Contractor's sole and exclusive remedy for any delays not caused by the Contractor shall be an extension in the Contract Time, as described above. For such delays as; fire, flood, epidemic, abnormal weather conditions, acts of God, acts of others (including Owner) the Contractor shall only be entitled to an equitable adjustment in Contract

Time and only if such adjustment is essential to Contractor's ability to complete the Work within the Contract Time.

**15. SUBSTANTIAL/FINAL COMPLETION**

When Contractor considers the entire Work ready for its intended use, Contractor shall notify Owner and Engineer in writing that the entire Work has met Substantial Completion or Final Completion (except for items specifically listed by Contractor 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. If the Engineer does not consider the Work to meet Substantial Completion or Final Completion, Engineer will notify Contractor and Owner in writing giving the reasons therefor. If the Engineer considers the Work Substantially Complete or Finally Complete, the Engineer shall prepare and deliver to the Owner and Contractor a certificate which shall fix the date of the Substantial Completion or Final Completion. Such certificate shall include a list of items to be completed or corrected as well as a written recommendation as to division of responsibilities pending final payment between the Owner and Contractor with respect to security, operation, safety, and protection of the Work, maintenance, insurance and warranties and guarantees. Unless the Owner and Contractor agree otherwise in writing, and so inform the Engineer in writing, the aforesaid recommendation will be binding on the Owner and Contractor.

In accordance with Florida Statute 218.735(7), the list of items to be completed or corrected will be submitted to the Contractor within 5 days after the list of items has been developed by the Engineer and reviewed to the Owner.

**16. PROJECT CLOSEOUT**

Contractor shall comply with Section 01700 – Contract Closeout, and all related Sections of the Technical Specifications.

**17. REIMBURSEMENT OF ENGINEERING EXPENSES**

Should the Final Completion and acceptance of the Work, together with any modifications or additions, be delayed beyond the time herein set, it is understood and agreed that, aside from any other damage per day for such delay, from such time until the same is completed and accepted as herein provided, all costs of Engineering, Inspection and other project costs on behalf of Owner will be charged to Contractor hereunder, and deducted from any estimate or payment otherwise due and payable to Contractor from time to time.

**18. SUSPENSION OF WORK DUE TO WEATHER**

During inclement weather, all Work which might be damaged or rendered inferior by such weather conditions, shall be suspended. The orders and decisions of the Engineer as to suspensions shall be final and binding. During the suspension of the Work from any cause, it shall be suitably covered and protected so as to preserve it from injury by the weather or otherwise; and, if the Engineer shall so direct, the rubbish and surplus material shall be removed. If, in the opinion of the Engineer, any work or materials shall have been damaged or injured by reason of failure on the part of the Contractor, or any of his subcontractors, to so protect Contractor's work, such material shall be removed and replaced at the expense of Contractor.

If Contractor is delayed in the performance or progress of the Work by abnormal weather conditions, Contractor shall be entitled to an equitable adjustment in Contract Time, if such adjustment is essential to Contractor's ability to complete the Work within the Contract Time, in accordance with Article 14 of the General Conditions. Such an adjustment in Contract Time shall be Contractor's sole and exclusive remedy for any delay caused by weather.

## **19. FORCE MAJEURE**

No Party shall hold the other responsible for damages or for delays in performance caused by force majeure, acts of God, or other acts or circumstances beyond the control of either party or that could not have been reasonably foreseen and prevented. For this purpose, such acts or circumstances shall include, but not be limited to, weather conditions affecting performance, floods, epidemics, war, riots, strikes, lockouts, or other industrial disturbances, or protest demonstrations. Should such acts or circumstances occur, the parties shall use their best efforts to overcome the difficulties arising therefrom and to resume the Work as soon as reasonably possible with the normal pursuit of the Work.

Inclement weather, continuous rain for less than three consecutive (3) days or the acts or omissions of subcontractors, third-party contractors, material men, suppliers, or their subcontractors, **shall not be considered** acts of force majeure.

No Party shall be liable for its failure to carry out its obligations under the Contract during a period when such Party is rendered unable by force majeure to carry out its obligation, but the obligation of the Party or Parties relying on such force majeure shall be suspended only during the continuance of the inability and for no longer period than the force majeure event.

Contractor further agrees and stipulates that its right to excuse its failure to perform by reason of force majeure shall be conditioned upon giving written notice to the Owner with copy to the Engineer of its assertion that a Force Majeure delay has commenced. Such notice shall be made within 5 days of the start of the asserted force majeure occurrence. Contractor shall use its reasonable efforts to minimize such delays. Contractor shall promptly provide an estimate of the anticipated additional time required to complete the Work to Engineer. The Engineer will make the determination if a Force Majeure has occurred and if a time extension will be granted at the time of the request.

## **20. INTERPRETATION OF DRAWINGS AND SPECIFICATIONS**

The Engineer shall decide all questions concerning the interpretation of the Drawings and Specifications pertaining to the character, quality, amount and value of any Work done and materials furnished under, or by reason of, this Contract and the Engineer's estimate and decisions shall be final and conclusive.

## **21. CONTROL OF THE WORK**

- A. The Engineer, under authority and direction of the Owner, shall have full control and direction of the Work in all respects. All explanations, directions, working drawings, sketches, etc., necessary to carry out and complete the Work in a manner satisfactory to the Owner shall be given by the Engineer. The Engineer, and employees, agents and authorized assistants, shall at all times have the right to inspect the Work and materials. Contractor shall furnish all reasonable facilities for obtaining such information as the Engineer may require, respecting the quality of the Work and

materials and the manner of conducting the Work. Should the Contractor be directed or permitted to perform night work, or to vary the period which work is ordinarily carried on in the daytime, in accordance with Article 11 of the General Conditions, Times/Days of Work, Contractor shall give ample notice to the Engineer, so that proper and adequate inspection may be provided. Such work shall be done only under such instructions as are furnished in writing by the Engineer, and no extra compensation shall be allowed the Contractor therefore. In the event of night work, Contractor shall furnish such lights, which are satisfactory to the Engineer and will permit proper inspection. Nothing herein contained shall relieve Contractor from compliance with any and all City of Boca Raton ordinances relating to noise or work during prohibited hours.

- B. The words "supervise" and "inspect" wherever used herein in connection with the duties or activity of the Engineer shall in no way, expressed or implied, relieve the Contractor from his/her responsibilities for the safety of the workers, the preservation of the Work or proper performance under this Contract. The Engineer shall not be responsible for the safety of the workers, the safeguarding of the Work, or the proper performance of the Contractor.
- C. Copies of the Specifications will be used by the Engineer and inspectors employed on the Work, to enforce each and every requirement of the Contract Documents.

## **22. LAYOUT SURVEY AND AS-BUILT RECORD DRAWINGS**

The Engineer will furnish Contractor with all necessary information relating to lines, grades, benchmarks, control points, and location of the Work. Contractor shall furnish all necessary labor equipment and supplies to layout the Work and for the establishment of all lines and grades. All layout Work may be checked and verified by the Engineer, and Contractor shall furnish all such necessary material, equipment, labor, and assistance as the Engineer may require. Contractor shall keep an accurate record of the nature, location, and dimensions of all Work, especially such Work as may subsequently become concealed or inaccessible, and transmit this information, properly marked on a set of reproducible construction plans, to the Engineer when the Work is complete. Contractor shall reference and reset all property corners, benchmarks, centerline control points, and section corners, in accordance with the Florida Department of Transportation Location Survey Manual, which may be disturbed during construction. A Land Surveyor registered in the State of Florida must perform all construction layout Work and prepare As-Built Record Drawings in accordance with FAC Chapter 5J-17, Professional Surveyors and Mappers. Contractor shall comply with Section 01720, Project Record Documents of the Technical Specifications.

The cost of all such field layout and surveying Work shall be included in the Contract Price for the appropriate items and shall not result in any additional or separate cost to the Owner.

## **23. INSPECTION**

No Inspector shall have the power to waive the obligations resting upon the Contractor to furnish good material and do good work as herein prescribed. Any failure or omission on the part of any Inspector or the Engineer to condemn any defective material or Work shall not release the Contractor from the obligation to at once tear out, remove, and properly replace or rebuild the same at any time upon discovery of the defect and upon notice from the Owner or Engineer to do so. All Work, all materials, and all methods of construction shall be at all times and places subject to the inspection of the Engineer who shall be the final judge of the

quality and suitability of the Work, materials, processes of manufacture, and methods of construction for the purposes for which they are used. Should any Work fail to meet the Engineer's approval, they shall be forthwith reconstructed, made good, replaced and/or corrected, as the case may be, by the Contractor at the Contractor's own expense. Rejected material shall immediately be removed from the Site. If, in the opinion of the Engineer, it is undesirable to replace any defective or damaged materials or to reconstruct or correct any portion of the Work injured or not performed in accordance with the Contract Documents, the compensation to be paid to Contractor hereunder shall be reduced by such amount as in the judgment of the Engineer shall be equitable.

#### **24. NO WAIVER OF LEGAL RIGHTS**

- A. Inspection by the Engineer, or by any of the Engineers duly authorized representatives, any order, measurement, or certificate by the Engineer, any order by the Owner for the payment of money, any payment for or acceptance of any Work or any extension of time, or any possession taken by the Owner shall not operate as a waiver of any provision of the Contract or any power therein reserved to the Owner or any right to damages therein provided. Any waiver of any breach of the Contract shall not be held to be a waiver of subsequent breach.
- B. The Owner reserves the right to correct any error that may be discovered in any estimate that may have been paid and to adjust the same to meet requirements of the Contract. The Owner further reserves the right, should conclusive proof of defective Work on the part of the Contractor be discovered after the final payment has been made, to claim and recover by process of the law from CONTRACTOR such sums as may be sufficient to correct the error or make good the defects in the Work.
- C. Any waiver of any provision of the Contract Documents made by Engineer shall be approved in advance by Owner in writing and shall be specific, in that it shall apply only to the particular item or matter concerned and shall not apply to other similar or dissimilar items or matters. Such waiver shall not be effective unless and until a written approval of the waiver by Owner is presented to Contractor.

#### **25. CONTRACTOR TO CHECK DRAWINGS, DATA, AND CONDITIONS**

- A. Contractor shall verify all dimensions, quantities and details shown on the Drawings, supplementary drawings, schedules, or other data received from the Engineer or the Owner, and shall notify the Engineer of all errors, omissions, conflicts and discrepancies found therein. Failure to discover or correct errors, omissions, conflicts, or discrepancies shall not relieve the Contractor of full responsibility for unsatisfactory Work, faulty construction, or improper operation resulting therefrom nor from rectifying such condition at Contractor's own expense. Contractor will not be allowed to take advantage of any error or omissions, as the Engineer will furnish instructions, should any error or omission be discovered. All instructions are given for the convenience of Contractor and are not guaranteed to be complete.
- B. Should Contractor encounter sub-surface and/or latent conditions at the Site materially differing from those shown on the plans or indicated in the Specifications, Contractor shall immediately give notice to the Engineer of such conditions before they are disturbed. The Engineer will thereupon promptly investigate the conditions, and if Engineer finds that they materially differ from those shown on the Drawings and/or



Specifications, the Engineer will at once make such changes in the Drawings and/or Specifications as the Engineer may find necessary, and any increase or decrease of cost resulting from such changes to be adjusted in the manner provided in Article 36 of the General Conditions, Changes, Extra and Omitted Work, and Article 38 of the General Conditions, Extra Work.

## **26. DISPUTED WORK**

If the Contractor is of the opinion that any Work required, necessitated, or ordered is not within the terms and provisions of this Contract, the Contractor must promptly notify the Engineer, in writing, of the Contractor's contentions with respect thereto and request a final determination thereon. If the Engineer determines that the Work in question is part of the Work and not extra Work, the Engineer will direct the Contractor to proceed, and the Contractor must promptly comply.

## **27. MATERIALS AND MANUFACTURED ARTICLES**

- A. Whenever a material, article or piece of equipment is identified on the Drawings or in the Specifications by reference to manufacturer's or vendor's names, trade names, catalogue numbers, etc., it is intended merely to establish a standard; and, any material, article, or equipment of other manufacturers and vendors which will perform adequately the duties imposed by the general design will be considered equally acceptable, provided the material, article, or equipment so proposed, is, in the opinion of the Engineer, of equal substance and function. It shall not be purchased or installed by the Contractor without the Engineer's written approval or approved shop drawings. Section 01600, Equipment and Materials, of the Technical Specifications regarding "or equal" materials or manufactured articles and Section 01630, Substitutions and Product Options, of the Technical Specifications shall be applicable.
- B. If two or more brands, makes of material, manufactured articles, devices, or equipment are shown or specified, each should be regarded as the equal of the other. Any other brand, makes of material, manufactured article, device, or equipment which, in the opinion of the Engineer, is the recognized equal of that specified considering quality, workmanship and economy of operation, and is suitable for the purpose intended, may be accepted in accordance with subparagraph A, above.
- C. All materials and equipment used in the construction of the project shall be subject to adequate inspection and testing in accordance with accepted standards. The Owner shall select the laboratory or inspection agency.
- D. Materials of construction, particularly those upon which the strength and durability of the structure may depend, shall be subject to inspection and testing to establish conformance with specifications and suitability for uses intended.
- E. All material and workmanship shall in every respect, be in accordance with what, in the opinion of the Engineer, is in conformity with approved modern practice.
- F. Wherever the Drawings, Specifications or other Contract Documents, or the directions of the Engineer, are unclear as to what is permissible and/or fail to note the quality of any Work, that interpretation will be made by the Engineer, which is in accordance with approved modern practice, to meet the particular requirements of the Contract.

- G. In all cases, new materials shall be used, unless this provision is waived by notice from the Owner or the Engineer in writing. Any materials or equipment, which, in the opinion of the Engineer, have become excessively weathered or damaged since manufacture, shall not be considered as new.

## **28. ITEMS SPECIFIED ON DRAWINGS**

Items of material, equipment, machinery and the like may be specified on the Drawings and not in the Specifications. Such items shall be provided by the Contractor in accordance with the specifications on the Drawings.

## **29. SHOP DRAWINGS, SUBSTITUTIONS AND LIST OF MATERIALS**

- A. Contractor shall comply with Section 01300, Submittals, and Section 01630, Substitutions and Product Options, of the Technical Specifications. Contractor shall submit shop drawings for all equipment, apparatus, machinery, fixtures, piping, wiring, fabricated structures, and manufactured articles. The purpose of the shop drawings is to show the suitability, efficacy, technique of manufacture, installation requirements, and details of the item and evidence of its compliance or noncompliance with the drawings and Specifications.
- B. Within 30 days of the Notice to Proceed, or later date identified by the Owner, the Contractor shall submit to the Engineer a complete list of preliminary data on items for which shop drawings are to be submitted. Approval of this list by the Engineer shall in no way expressed or implied relieve the Contractor from submitting complete shop drawings and providing materials, equipment, etc., fully in accordance with the Specifications.
- C. After the approval of the list of items required in Paragraph B, next above, the Contractor shall promptly request shop drawings from the various manufacturers, fabricators, and suppliers.
- D. The Contractor shall thoroughly review and check the shop drawings, and each and every copy shall be marked to show the Engineer's approval thereon.
- E. If the shop drawings show or indicate departures from the Contract requirements, the Contractor shall make specific mention thereof in the Contractor's letter of transmittal. Failure to so point out such departures shall not relieve the Contractor from the responsibility to comply with the drawings and Specifications.
- F. Approval of the shop drawings shall constitute approval of the subject matter thereof only, and not of any structure, material, equipment, or apparatus shown or indicated. The approval of the shop drawings will be general and shall not relieve the Contractor of responsibility for the accuracy of such drawings, nor for the proper fitting and construction of the Work, nor for the furnishing of materials or Work required by the Contract and not indicated on the drawings. No Work called for by shop drawings shall be done until the Engineer has approved said Drawings. Approval shall not relieve the Contractor from responsibility for errors or omissions of any sort on the shop drawings.
- G. No approval will be given to partial submittals of shop drawings for items, which interconnect and/or are interdependent. It is the Contractor's responsibility to

assemble the shop drawings for all such interconnecting and/or interdependent items, check them and then make one submittal to the Engineer along with the Engineer's comments as to compliance, non-compliance, or features requiring special attention.

- H. If catalog sheets or prints of manufacturers' standard drawings are submitted as shop drawings, any additional information or changes on such drawings shall be typewritten or lettered in black ink.
- I. The Contractor shall submit copies, as provided in Section 01300 – Submittals, of the Technical Specifications, (additional copies may be requested for multi-discipline related items) of each shop drawing to the Engineer. Resubmissions of shop drawings shall be made in the same quantity until final approval is obtained.
- J. The Contractor shall keep one set of shop drawings marked with the Engineer's approval at the job Site at all times.
- K. The Engineer has been engaged by Owner to review each shop drawing submittal and the Record Drawings up to two times, as may be necessary. Should a shop drawing or record drawing not receive final approval from the Engineer after two reviews, the cost of the Engineer's time for subsequent review of the submittal shall be paid by the Contractor. A Change Order shall be prepared to deduct this cost from the final Contract amount.

### **30. SUPPLEMENTARY DRAWINGS**

- A. When, in the opinion of the Engineer, it becomes necessary to explain more fully the Work to be done, or to illustrate the Work further, or to show any changes which may be required, supplementary drawings, with specifications pertaining thereto shall be prepared by the Engineer.
- B. The supplementary drawings shall be binding upon the Contractor with the same force as the Drawings. Where such supplementary drawings require either less or more than the estimated quantities or Work, credit to the Owner, or compensation therefore to the Contractor, shall be subject to the terms of the Contract.

### **31. PAYMENTS**

- A. The Owner will make Payments to the Contractor, based on periodic estimates in accordance with F.S. 218.735. The Owner will withhold from each progress payment a percentage of the payment determined as retainage in accordance with F.S. 218.735.
- B. The Contract Price shall be a lump sum price and/or a price obtained by applying fixed unit prices to estimated quantities that are subject to adjustment at completion of the Work to reflect actual quantities involved. The Contractor shall measure Work already in place and shall at once report to the Engineer any discrepancy between the executed Work and the Drawings.

Wherever the unit of measure is listed as a lump sum, the Contractor is responsible for the determination of the quantities for those items constructed within the authorized plan limits or dimensions. The Owner does not assume any responsibility for any

incidental information in the Contract Documents that may be construed as a quantity of Work and/or materials.

Wherever the estimated quantities of Work to be done and materials to be furnished under this Contract are shown in any of the documents including the bid form, they are given for use in comparing bids and the right is especially reserved, except as herein otherwise specifically limited, to increase or diminish them as may be deemed reasonably necessary or desirable by the Owner to complete the Work contemplated by this Contract and such increase or diminution shall in no way vitiate this Contract, nor shall any such increase or diminution give cause for claims or liability for damages.

Progress payments on the Contract Price for the value of Work completed and component material on Site will be made upon request at intervals no more frequently than monthly. The request must be made through the Engineer on an approved estimate payment form, provided by the Engineer, showing the component breakdown of the Work totaling the Contract Price and the amount of Work for each item completed at the time of the request.

- C. All material and Work covered by partial payments made shall thereupon become the sole property of the Owner, but this provision shall not be construed as relieving the Contractor from the sole responsibility for the care and protection of materials and Work upon which payments have been made or the restoration of any damaged Work, or as a waiver of the right of the Owner to require the fulfillment of all of the terms of the Contract.
- D. The Contractor shall, at the Owner's request, furnish satisfactory evidence that all obligations of the Work have been paid, discharged, or waived. If the Contractor fails so to do, then the Owner may, after having served written notice on the Contractor, either pay unpaid bills, of which the Owner has written notice, or withhold from the Contractor as unpaid compensation a sum of money deemed reasonably sufficient to pay any and all such lawful claims until satisfactory evidence is furnished by Contractor that all obligations have been fully paid, discharged, or waived, as provided above. Thereupon payment to the Contractor shall be resumed, in accordance with the terms of this Contract, but in no event shall the provisions of this sentence be construed to impose any obligations upon the Owner to either the Contractor or the Contractor's Surety.
- E. In the event the Owner determines, in its sole discretion, to pay any unpaid bills of the Contractor, the Owner shall be deemed the agent of the Contractor, and any payment so made by the Owner, shall be considered as a payment made under the Contract by the Owner to the Contractor, and the Owner shall not be liable to the Contractor for any such payment.
- F. Before commencing the Work, the Contractor shall provide to the Owner a certified copy of the recorded bonds. The Owner will not make any payment to the Contractor until the Contractor has complied with this requirement for bonded projects.

Payment will be made by the Owner after commodities/services have been received, accepted, and properly invoiced as indicated in the Contract Documents.

The Project Manager will, within twenty (20) working days after receipt of each application for payment, either indicate in writing a recommendation of payment or return the application to the Contractor indicating in writing the Project Manager's reasons for refusing to recommend payment. In the latter case, the Contractor shall make all necessary corrections and resubmit the application.

- G. Each application for payment shall be accompanied by the following:
1. A notarized Affidavit of Disbursement of Previous Periodic Payments to "Subcontractors from the Contractor for the portion of Work up to the date of that particular pay application;
  2. An Owner approved construction schedule update;
  3. A letter from the Surety acknowledging Partial Release for Bonded Work;
  4. Project photographs for the period of Work completed; and
  5. Updated red-lined drawings.
- H. The Owner may, in its sole discretion, withhold or, on account of subsequently discovered evidence, nullify the whole or a part of any payment to such extent as may be necessary to protect the Owner from loss on account of:
1. Any claims made against the Contractor by the Owner or third parties, or if reasonable evidence indicates the probability of the making of any such claim;
  2. The Contractor's default of, or noncompliance with, any Contract condition;
  3. A reasonable doubt that this Contract will be able to be completed within the time specified or for the balance then unpaid;
  4. Defective Work or material not yet remedied;
  5. The Contractor's failure to carry out the Work in accordance with the Contract Documents;
  6. The Contractor's failure to submit the information required by this Contract; or
  7. The Contractor's failure to submit an owner approved updated Schedule with each Application for Payment.

If claims or liens filed against the Contractor or the Owner connected with performance under this Contract are not promptly removed by the Contractor after receipt of written notice from the Owner to do so, the Owner may remove such claims or liens and all costs in connection with such removal shall be deducted from withheld payments or other monies due to the Contractor under the Contract. If the funds due to the Contractor are insufficient to meet such cost, or if any claim or lien against the Contractor is discharged by the Owner after final payment is made, the Contractor and its Surety or Sureties shall promptly pay the Owner all costs (including attorney's fees) incurred thereby regardless of when such claim or lien arose.

In the event any dispute with respect to any payment or pay request cannot be resolved between the Contractor and the Owner, the Contractor may, in accordance with the alternative dispute resolution requirements of the Local Government Prompt Payment Act. (Sections 218.76, et. seq, Florida Statutes), demand in writing a meeting with and review by the Utility Services Department Director. The Department Director or their designee will conduct the meeting and review. Such meeting and review shall occur within ten (10) business days of receipt by the Owner of Contractor's written demand. The Department Director, or designee, shall issue a written decision on the dispute within ten (10) business days of such meeting. This decision shall be deemed the Owner's final decision for the purposes of the Local Government Prompt Payment Act.

**32. FINAL BILL OF MATERIALS**

The Contractor shall be required to submit a final bill of materials with unit costs for each bid item requiring materials only. This shall be an itemized list of all materials with a unit cost for each material and the total shall be consistent with unit costs established for each Contract item.

**33. FINAL PAYMENT**

When all Work embraced in this Contract shall have been fully completed consistent with the Specifications and stipulations herein, and to the satisfaction of the Engineer and the Owner, the Contractor shall cause a final estimate to be made of the amount and value of said Work according to the prices and terms of this Contract. The Contractor shall certify the final estimate to the Owner and the Engineer. From the sum total so found shall be deducted, firstly, all previous payments made to the Contractor and secondly, all damages and proper charges under the Contract and the Contract Documents. The Contractor shall execute a final receipt and release on the form attached in the Contract, upon the Owner making the final settlement and payment as aforesaid. The acceptance by the Contractor of final payment shall be and shall operate as a release of the Owner for all claims and all liability to the Contractor arising from all things done or furnished in connection with the Work and for every act and neglect of the Owner and others relating to or arising out of this Work. No payment, however, final or otherwise, shall operate to release the Contractor or the Contractor's Sureties from any obligations under this contract including, but not limited to, warranties or pursuant to the Performance and Payment Bond or Public Construction Bond.

**34. INVOICES FOR MATERIAL ON SITE**

To receive approval for progress payment on component material on Site, the Contractor is required to submit to the Engineer copies of the original paid invoices with the monthly estimate for all material to be approved for payment. This requirement applies to both lump sum and unit price items.

**35. SALVAGE**

Any existing equipment or material, including but not limited to, valves, pipes, fittings, couplings, etc., which is removed or replaced as a result of construction under this Project may be designated as salvage by the Engineer or the Owner and if so, shall be excavated, if necessary, and delivered to the Owner at a location directed by the Engineer or the Owner. Any equipment or material not worthy of salvaging shall be disposed of by the Contractor at a suitable location offsite at no additional cost to the Owner.

### **36. CHANGES, EXTRA AND OMITTED WORK**

- A. It is mutually agreed that no change involving a material change in cost, either to the Owner or the Contractor, shall be made except upon written permission of the Owner as further detailed in Section 01153, Change Order Procedures, of the Technical Specifications. Extra work shall be paid for as set forth in Article 38 of the General Conditions, Extra Work. Omitted Work shall be credited against the money due the Contractor by one of the methods described in Article 39 of the General Conditions, Omitted Work. The Contractor shall make no claim for extra Work unless the Owner, in advance of the Work, has approved it in writing, except that the Contractor may proceed to meet an emergency condition if the Owner's representative is not available.
- B. The Engineer shall, in all cases of dispute, determine the amount or quantity of the several kinds of Work which are to be paid for under this Contract, and shall decide all questions relative to the execution of the same, and such estimates and decisions shall be final and binding.
- C. Any Work not herein specified, which may be fairly implied as included in the Contract, of which the Engineer shall judge, shall be done by the Contractor without extra charge.

### **37. EXTRA QUANTITIES /REDUCTION TO QUANTITIES**

- A. Should it be determined by the Engineer that it is necessary to increase the quantities of materials above those required to complete the Work as shown on the Drawings or specified herein due to changes in the design or layout of the Work, the Contractor shall furnish and install such additional materials or make such additional excavation (as ordered by the Engineer). The Contractor will be paid for the extra quantities at the Contract unit price. Any Contract Price and/or Contract Time adjustment will be by written Change Order.
- B. If such changes of plan result in a decrease in quantities, the Contractor shall allow a credit against the Contract Price in accordance with the prices bid for the extra quantities.

### **38. EXTRA WORK**

- A. The Owner may, at any time, by a written Change Order and without notice to the Sureties, require the performance of such extra Work as it may find necessary or desirable arising out of the modification of the Specifications or Drawings. All Work so ordered must be performed by the Contractor. The amount of compensation to be paid to the Contractor for any Work so ordered shall be determined as follows:
  - 1. By such applicable unit prices, if any, as are set forth in the Contract;
  - 2. If no such prices are so set forth, then by a lump sum or other unit prices mutually agreed upon by the Owner and the Contractor; or
  - 3. If no such unit prices are so set forth in the Contract and if the parties cannot agree upon a lump sum or other unit prices, then by the actual net cost in money to the Contractor of the extra Work performed. The cost shall be determined as follows and a proposal submitted to the Owner for review.

- (a) For all labor and foremen/forewomen in direct charge of the authorized operations, the Contractor shall receive the current local rate of wages, to be agreed upon in writing before starting such Work, for each hour that said labor and foremen/forewomen are actually engaged thereon, to which shall be added an amount equal to 15 percent (15%) of the sum thereof which shall be considered and accepted as full compensation for general supervision and the furnishing of small tools and miscellaneous equipment used, such as picks, shovels, hand tools, work trucks, small pumps, and similar items.
  - (b) For all materials used, the Contractor shall receive the actual cost of such materials delivered at the Site or previously approved delivery point as established by original receipt bills. No percentage shall be added to this cost.
  - (c) For special equipment and machinery such as power-driven pumps, concrete mixers, trucks, and tractors, or other equipment, required for the economical performance of the authorized Work, the Contractor shall receive payment based on the agreed rental price for each item of equipment and the actual time of its use on the work. No percentage shall be added to this sum.
  - (d) For Work to be performed by a Subcontractor retained by the Contractor, the Owner and the Contractor shall agree on the cost of the Work to be performed by that Subcontractor and the Contractor shall receive that agreed-upon amount, together with an amount equal to 5 percent (5%) of the agreed-upon amount (which shall be considered and accepted as full compensation for coordination and Contractor profit).
  - (e) The Contractor's profit shall be computed by taking ten percent (10%) of the sum of items 3(a) and 3(b) above.
  - (f) The total cost of performing this extra Work shall then be the sum of items 3(a), 3(b), 3(c), 3(d), and 3(e).
- B. Records of extra Work done, if any, shall be reviewed at end of each day by the Contractor or his representative and the Engineer, duplicate copies of accepted records shall be made and signed by both the Contractor and the Engineer, and one copy retained by each.
- C. A claim of payment for extra Work shall be submitted by the Contractor upon a certified statement supported by receipt bills. Such statements shall be submitted for payment in the month in which the Work was done. No claim for extra Work shall be allowed unless the same was ordered, in writing.
- D. Any request for a Time extension, if applicable, shall be submitted at time of the proposed Change Order. Further, upon execution by the Owner of any Change Order where no time extension has been requested and/or granted, that Change Order shall constitute a complete waiver of all claims for dollars or for any extension of time related to that Work or for any Work impacted by the change.

### **39. OMITTED WORK**

The Owner may, at any time, by a written order and without notice to the Sureties, require the omission of any portion of the Work as it may find necessary or desirable. All Work so identified must be omitted by the Contractor. The amount by which the Contract price shall be reduced shall be determined as follows:



- A. By such applicable unit prices, if any, as set forth in the Contract;
- B. By the appropriate lump sum price set forth in the Contract; or
- C. By reasonable and fair estimated cost of such omitted Work as determined by the Engineer.

#### **40. PROTECTION OF PROPERTY AND PUBLIC**

- A. The Contractor shall be required to strictly obey all applicable ordinances in relation to obtaining permits for occupying, excavating or in anywise obstructing the streets and alleys. Contractor shall erect and maintain barricades and sufficient safeguards around all excavations, embankments or obstructions.
- B. Where there are telephone, telegraph, light, or power poles; water mains, conduits, pipes, or drains; or other construction either public or private; in or on the streets or alleys; the Work shall be so conducted that no interruption or delay will be caused in the operation or use of the same.
- C. The Contractor will not be permitted to interfere with public travel and convenience by grading or tearing up streets indiscriminately, but the Work of conducting the various items of this Contract shall proceed in an orderly, systematic and progressive manner.

#### **41. LOCATION AND PROTECTION OF UTILITIES**

It shall be the Contractor's responsibility to ascertain the exact location of all utilities prior to construction regardless of information which may be indicated on the Drawings. Utilities shall be located and marked in the field. The Contractor shall take whatever steps are necessary to protect the utilities from damage. Any damages sustained by any utility as a result of operations under this Contract shall be promptly repaired or replaced at the sole expense of the Contractor and no additional money shall be due for this repair or replacement Work under this Contract.

The Contractor will plan the Work and conduct the construction operations in cooperation with the various utility companies. The Contractor will use extreme caution where construction is performed in proximity to utilities, and the Engineer will be notified when any Work may conflict with utilities.

Any conflicts found are to be brought to the attention of the Engineer for resolution prior to start of the Work. Unless otherwise directed, the Contractor is to support, or otherwise protect, all utility companies' facilities during construction. The Contractor shall protect all existing utilities throughout the construction and shall contact the offices of the various utility companies at least 48 hours prior to the start of any construction.

#### **42. OVERHEAD UTILITIES**

- A. If there are overhead utility lines in the vicinity of the construction area, Contractor shall conform to Florida Industrial Commission Regulation 185S-4-CB-1958 "Regulation for Use of Cranes, Draglines and Similar Equipment Near Power Lines.", or the most current standard.
- B. It is the responsibility of the Contractor to ensure that all utility or other poles, the stability of which may be endangered by the close proximity of excavation, are temporarily stayed in position while Work proceeds in the vicinity of the pole and that the utility or other companies concerned are given advance notice of any such excavation by the Contractor.

#### **43. COORDINATION OF WORK**

The Contractor may expect other construction to occur in the vicinity of the Site during the course of the Contract. In such instances, the Contractor will be required to cooperate fully so as to eliminate or minimize the creation of conflicts. Adjustments from time to time may be required in the Contractor's Work location and/or schedule provided a reasonable notice is given by the Owner or Engineer.

#### **44. SANITARY REGULATIONS**

The Contractor shall furnish necessary sanitary conveniences for the use of laborers on the Site. Sanitary facilities shall be delivered and maintained in such manner and at such points as shall be approved by the Engineer. Their use shall be strictly enforced. The Contractor shall supply sufficient drinking water to his employees from such sources as shall be approved by the Engineer, and shall obey and enforce such sanitary regulations and take such precautions against infectious disease, as the Engineer may deem necessary. Should any infectious disease occur among his employees, Contractor shall arrange for the immediate removal of the employee from the Work and for isolation of all persons who were potentially in contact with such employee.

#### **45. STORAGE FACILITIES**

Should the Contractor build or furnish storage facilities, or other structures for, tools, machinery, and supplies, they shall be permitted only at approved places, and their surroundings shall be maintained at all times in a sanitary and satisfactory manner. All such structures shall be removed together with all rubbish and trash on or before the completion of the Work and at the expense of the Contractor.

#### **46. DEFECTIVE WORK**

- A. If at any time, before final acceptance of the Work or materials, defects therein shall be found, the Contractor shall promptly correct such defects, remove and dispose of all defective or unsatisfactory Work or materials, and supply non defective materials and Work in accordance with the Contract Documents. Previous construction of such Work will not relieve the Contractor of the responsibility for good Work or materials, although the defects may have been overlooked by the Engineer or Inspector, or may have been the result of damage from any cause.

- B. Should the Contractor fail or refuse to remove and renew any defective Work performed, or to make any necessary repairs in an acceptable manner, and in accordance with the requirements of the Contract within the time indicated in writing, the Owner shall have the authority to cause the unacceptable or defective Work to be removed or renewed, or such repairs as may be necessary to be made at the Contractor's expense. Any expense incurred by the Owner in making these removals, renewals or repairs, which the Contractor has failed or refused to make, shall be paid for out of any monies due or which may become due the Contractor, or may be charged against the Sureties. Continued failure or refusal on the part of the Contractor to make any or all necessary repairs, promptly, fully, and in an acceptable manner, shall be sufficient cause for the Owner to declare the Contract in Default, in which case the Owner at its option may instruct the Engineer to purchase materials, tools, and equipment and employ labor or may contract with any other individual, firm or corporation, or may proceed with its own forces to perform the Work.
- C. All costs and expenses incurred thereby shall be charged against the Contractor and the amount thereof deducted from any monies due, or which may become due Contractor, or shall be charged against the Work as a deductive Change Order. Any special Work performed as described herein, shall not relieve the Contractor in any way from the Contractor's responsibility for the Work to be performed by Contractor pursuant to the Contract Documents.
- D. At the request of the Engineer, the Contractor shall, at any time before Final Completion of the Work, remove or uncover such portions of the finished Work as may be directed. After examination, the Contractor shall restore said portions of the Work to the standard required by the Contract Documents. Should the Work thus exposed or examined prove acceptable, the uncovering or removing, and the replacing of the covering or making good of the parts removed, shall be paid for by Change Order, but should the Work so exposed or examined prove unacceptable, the uncovering or removing, and the replacing of the covering or making good of the parts removed, shall be at the Contractor's expense.
- E. Failure to reject any defective Work or material shall not in any way prevent later rejection when such defect would be discovered or obligate the Owner to final acceptance.
- F. If any other Contractor or any subcontractor shall suffer loss or damage on the Work alleged to be due to acts of neglect on the part of the Contractor, the Contractor agrees to settle with such other Contractor or subcontractor by agreement or arbitration if such other Contractor or subcontractors will so settle. If such other Contractor or subcontractor asserts a claim against the Owner on account of any damage alleged to have been sustained due to acts of neglect on the part of the Contractor, the Owner shall notify the Contractor, who shall defend, indemnify and save harmless the Owner, its officials and employees, against any such claim. This provision shall survive termination or expiration of the Contract.

#### **47. DISTRIBUTION OF WORK**

- A. Arrangement of the Specifications in divisions, under general titles descriptive of the principal materials or trades covered, is for convenience. Under many divisions it has seemed proper to include items of other trades or types of materials, the use or the

installation of which is closely related to the principal subject of that division. Such arrangement shall not render the Engineer as an arbitrator to establish subcontract or trade limits between Contractor and subcontractor or trades.

- B. Contractor and all subcontractors shall study all of the Drawings and Specifications in sufficient detail to assure that all required items are included. It shall be the Contractor's responsibility to arrange the distribution of the Work such that all required items are provided by the proper trades and at the proper times, without controversy as to contract obligation, or as to jurisdiction, and Contractor shall make all necessary adjustments to this end.

#### **48. SEPARATE CONTRACT**

- A. The Owner reserves the right to engage other contractors in connection with the Work. The Contractor shall afford such other contractors a reasonable opportunity for storage of their materials and the execution of their work, and shall properly connect and coordinate Contractor's Work with theirs.
- B. If any part of the Contractor's Work depends, for proper execution or results, upon the work of any other contractor, the Contractor shall inspect and promptly report to the Engineer any defects in such Work that render it unsuitable for such proper execution and results. Failure of Contractor to inspect and report shall constitute Contractor's acceptance, at his/her own risk, of the other contractor's work as fit and proper for the reception of his Work.

#### **49. REFERENCE TO STANDARDS**

- A. Wherever reference is made to the furnishing of materials or testing thereof to conform to the standards of any technical society, organization, or body, it shall be construed to mean the latest standard, code, specification or tentative specification adopted and published at the date of advertisement for bids, even if reference has been made to an earlier standard. The standards of the following list of technical societies, section B below, are hereby made a part of the Contract as if they were incorporated by reference herein and repeated in full.

In the event of any conflict between specifications, standards, codes, or tentative specifications, and the Technical Specifications, the latter shall govern. In the event of conflict with another, the decision as to which shall govern will be decided by the Engineer, whose judgment will be final.

- B. Reference to a technical society, organization, or body may be made in the Specifications by abbreviations, in accordance with the following list:

AASHTO	for American Association of State Highway and Transportation Officials
ACI	for American Concrete Institute
AGMA	for American Gear Manufacturers' Association
IEEE	for Institute of Electrical and Electronic Engineers
AFBMA	for Anti-friction Bearing Manufacturers' Association
AISC	for American Institute of Steel Construction
ASCE	for American Society of Civil Engineers
ASTM	for American Society for Testing Materials

ASME	for American Society of Mechanical Engineers
AWSC	for American Welding Society Code
AWWA	for American Water Works Association
AWPA	for American Wood Preservers Association
CIPRA	for Cast Iron Pipe Research Association
Fed. Spec.	for Federal Specification
Navy Spec.	for Navy Department Specification
NEC	for National Electric Code
NEMA	for National Electrical Manufacturers Association
NLMA	for National Lumber Manufacturers Association
SAE	for Society of Automotive Engineers Standards
SFBC	for South Florida Building Code
SHBI	for Steel Heating Boiler Institute
FDOT	for Florida Department of Transportation
U.L., Inc.	for Underwriters' Laboratories, Inc.
ANSI	for American National Standards Institute

- C. When no reference is made to a code, standard, or specification, the standard specifications of the ASTM, the ANSI, the ASME, the IEEE, or the NEMA shall govern.

## **50. MAINTENANCE OF OPERATION**

- A. The Contractor shall fully cooperate at all times with the Owner in order to maintain the operation of the existing utilities with the least amount of interference and interruption possible. Public health and safety considerations shall exceed all others and the Contractor's Schedule, plans and Work shall at all times be subject to alteration and revision if necessary for public health and safety considerations. The creation of a public nuisance will not be permitted.
- B. It may be necessary for the Contractor to interrupt or interfere with the operation of the utility system or a portion of the system. In all cases where the Contractor must cause an interruption, Contractor shall prepare and submit to the Engineer and to the Owner, 48 hours prior to commencing the Work, a complete description and Contractor's proposed procedure and a time schedule which Contractor will guarantee. At least twenty-four (24) hours prior to the time proposed for starting the Work the Contractor will be notified whether or not the Work will be permitted as proposed.
1. The Engineer and Owner reserve the right to require the Contractor to work 24 hours per day in all cases where, in their opinion, interference with operation of the system may result in dangerous health hazards or offensive conditions.
  2. In no case will the Contractor be permitted to interfere with the existing system until all materials, supplies, equipment, tools and incidentals necessary to complete the Work are on the Site. Back-up equipment on key equipment items shall be required on Work necessitating interference with the existing system.

## **51. SAFETY AND HEALTH REGULATIONS**

- A. Contractor shall be solely responsible for initiating and maintaining all safety precautions and programs in connection with the Work. Such responsibility does not

relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety laws and regulations. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:

1. all persons on or off the Site or who may be affected by the Work;
  2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
  3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.
- B. Contractor shall comply with all applicable laws and regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify owners of adjacent properties, of underground facilities, and other utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property.
- C. Contractor shall comply with the applicable requirements of Owner's safety programs, if any.
- D. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply with while at the Site.
- E. Contractor's duties and responsibilities for safety and for protection of the Work shall continue until such time as all the Work is completed and Engineer has issued a Final Completion Notice to Owner and Contractor in accordance with Article 15 of the General Conditions, Substantial/Final Completion, that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).
- F. Contractor shall designate a qualified and experienced safety representative at the Site whose duties and responsibilities shall be the prevention of accidents and the maintaining and supervising of safety precautions and programs.
- G. Contractor shall be responsible for coordinating any exchange of material safety data sheets or other hazard communication information required to be made available to or exchanged between or among employers at the Site in accordance with all laws and regulations.
- H. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, Contractor is obligated to act to prevent threatened damage, injury, or loss. Contractor shall give Engineer prompt written notice if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby or are required as a result thereof. If Engineer determines that a change in the Contract Documents is required because of

the action taken by Contractor in response to such an emergency, a Construction Change Directive or Change Order will be issued.

- I. The Contractor shall comply with the Department of Labor Safety and Health Regulations for construction promulgated under the Occupational Safety and Health Act of 1970 (PL 91596) and under Section 107 of the Contract Work Hours and Safety Standards Act (PL 9154).

## **52. GUARANTEES/WARRANTIES**

Unless otherwise provided elsewhere in the Contract Documents, all materials and equipment incorporated into any Work covered by the Contract shall be new and, where not specified, of the highest grade of quality for their intended use, and all workmanship shall be in accordance with construction practices acceptable to Owner. Unless otherwise provided in the Contract, Contractor warrants all equipment, materials, and labor furnished or performed under this Contract, against defects in design, materials and workmanship for a period of twelve months (unless longer guarantees or warranties are provided for elsewhere in the Contract, in which case the longer periods of time shall prevail) from and after Final Completion of Work under the Contract, regardless of whether the same were furnished or performed by Contractor or by any of its subcontractors of any tier. In the event that the Owner assumes partial utilization of portions of the Work prior to completion of all Work, the Warranty for that portion shall also extend for twelve months from Final Completion of that portion of the Work, if and only if the Owner has exclusive use of the area. If the Owner does not have exclusive use of the area, the warranty period shall extend for twelve months from Final Completion of the last portion of the Work.

Upon receipt of written notice from Owner or Engineer of any defect in any such equipment, materials, or labor during the applicable warranty period, due to defective design, materials or workmanship, the affected item or parts thereof shall be redesigned, repaired or replaced by Contractor at a time and in a manner acceptable to Owner.

Contractor warrants such redesigned, repaired or replaced Work against defective design, materials and workmanship for a period of twelve months from and after the date of acceptance thereof. Should Contractor fail to promptly make the necessary redesign, repair, replacement and tests, Owner may perform or cause to be performed the same at Contractor's expense. Contractor shall perform such tests as Owner may require to verify that such redesign, repairs and replacements, and tests comply with the requirements of this Contract. All costs incidental to such redesign, repair, replacement and testing, including the removal, replacement and reinstallation of equipment and materials necessary to gain access, shall be borne exclusively by Contractor.

Contractor and its Surety or Sureties shall be liable for the satisfaction and full performance of the warranties as set forth herein and any damage to other parts of the Work caused by the Contractor's failure to perform pursuant to this general condition.

The Contractor is required to provide a designated telephone number for warranty-related emergencies which occur outside the normal workday. The Contractor is solely responsible for ensuring that all warranty Work is completed in the manner described above. If the Owner agrees, in writing, a subcontractor may be the point of contact for notices regarding warranty items, but such agreement shall not absolve the Contractor of its responsibility.

### **53. TESTING**

- A. All testing not otherwise called for in the Contract Documents shall be directed by the Owner or Owner's authorized agent.
- B. Unless otherwise specifically stated in the Drawings or Specifications, all laboratory/testing expenses will be paid by the Owner.
- C. The Contractor will be required, at his expense, to provide samples of materials to be tested, or make available or prepare sites for the testing procedures and supply any necessary equipment to make these tests in the field. The Contractor will be required to pay all expenses to ensure all Work meets the minimum standards within the specified tolerances set forth in the Specifications.
- D. Any retest required or any delay in performing any test or retest by the Owner or the Owner's authorized agent due to the Contractor's improper, or failure of, performance of the Work or the Contractor's negligence, or non-conformance with specified requirements, shall be paid for by the Contractor.

### **54. EQUIPMENT SHUTDOWN AND STARTUP**

The Contractor will be required to submit a request for each piece of in-service equipment to be temporarily placed out-of-service and locked out as well as each piece of new equipment to be started up, as required to complete the Work. The request must include a Work activity sequence plan and be submitted to the Owner and Engineer for consideration a minimum of seven (7) days in advance of the proposed Work. The Owner and Engineer will review the plan and provide comments as needed. Any requests for equipment startup must include Work activities for required Owner training as stated in the Technical Specifications. Only upon receipt of an approved equipment shutdown and/or startup request authorized by the Owner and Engineer shall the Contractor proceed with the activity sequence plan.