

# COCONUT CREEK

## INVITATION FOR BIDS



### COMPREHENSIVE STREET IMPROVEMENTS PHASE II SURTAX PROJECT (BC-CCREEK-FY2020-000001)

**BID NO. 12-28-21-3**

PROCUREMENT DIVISION  
4800 WEST COPANS ROAD, COCONUT CREEK, FLORIDA 33063  
EBID SYSTEM: [www.coconutcreek.net/fin/procurement](http://www.coconutcreek.net/fin/procurement)

**CITY OF COCONUT CREEK  
 COMPREHENSIVE STREET IMPROVEMENTS PHASE II  
 BID NO. 12-28-21-3**

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## CITY OF COCONUT CREEK

FINANCE AND ADMINISTRATIVE SERVICES  
PROCUREMENT DIVISION  
PETA-GAY LAKE, DIRECTOR  
4800 WEST COPANS ROAD  
COCONUT CREEK, FLORIDA 33063

February 28, 2022

### LEGAL NOTICE / INVITATION FOR BIDS

**Bid No.:** 12-28-21-3  
**Bid Name:** Comprehensive Street Improvements Phase II  
Surtax Project  
**Mandatory Pre-Bid Conference:** Wednesday, March 9, 2022 at 11:00 a.m. EST  
**Due Date/Time:** Tuesday, April 5, 2022 at 3:00 p.m. EST

A Cone of Silence is in effect with respect to this Invitation for Bids (IFB). The Cone of Silence prohibits certain communications between potential Respondents and/or Vendors and the City. All communication regarding this IFB shall be directed to Althea Pemsel, MA, CPSM, Procurement Supervisor, at Email [apemsel@coconutcreek.net](mailto:apemsel@coconutcreek.net).

The City of Coconut Creek, Florida is seeking bids from qualified, experienced and licensed Contractors to mill and repave approximately 7.3 centerline miles (not lane miles) of City streets, new sidewalk construction, sidewalk and roadway repairs, installing ADA accessible sidewalk, ramps, swale reconstruction, as well as the introduction of landscaping and beautification features within the right-of-way. The scope is indicated on the plans and is specified in applicable parts of this contract document. The work shall be performed in full accordance with the plans, specifications, terms, and conditions contained in this IFB.

Note: This is a Broward County Municipal Rehabilitation and Maintenance Project with a goal for Certified Business Enterprises (CBE) of 30%.

A **mandatory** pre-bid conference will be held at the Coconut Creek Government Center, City Hall, 4800 West Copans Road, Coconut Creek, Florida 33063 with the City of Coconut Creek staff and a representative from Broward County to discuss the 30% CBE goal requirements for this surtax project. Bidders or their representative(s) must attend. Please ensure that your company has reviewed the plans and specifications as this meeting presents an opportunity to clarify any concerns regarding the bid requirements. Failure to attend the pre-bid meeting will automatically result in Bidder being deemed non-responsive.

Bidder must be registered on the City's eBid System in order to respond to this IFB. A complete IFB Document may be downloaded for free from the eBid System as a pdf at: [www.coconutcreek.net/fin/procurement](http://www.coconutcreek.net/fin/procurement). The City is not responsible for the accuracy or completeness of any documentation the Bidder receives from any source other than from the eBid System.

Bids shall be submitted electronically through the eBid System on or before the due date/time stated above. Bidder is solely responsible for downloading all required documents. Each Bidder shall submit evidence that he is licensed to perform the work and services or qualified by examination to be so licensed. Responses will be electronically unsealed in a public forum and read aloud. Any bid received after the due date and time specified, will not be considered. Any uncertainty regarding the time a bid is received will be resolved against the Bidder.

Each bid shall be accompanied by cash, a certified check, or cashier's check drawn on a local bank in good standing, or by an acceptable BID BOND in an amount equal to five percent (5%) of the amount of the bid payable to the City of Coconut Creek, Florida, as a guarantee that if the bid is accepted the Bidder will execute the CONTRACT and file acceptable PERFORMANCE AND PAYMENT SURETY BONDS equal to one hundred percent (100%) of the contract price within ten (10) days after written Notice of Award of the Contract. **Bidder shall submit a copy of their original Bid Bond in their Bid Submittal.**

Please be advised that City Hall is closed on Fridays and on holidays observed by the City. City Hall hours of operation are 7:00 a.m. to 6:00 p.m., Monday through Thursday.

Pursuant to Section 119.071, Florida Statutes, sealed bids, proposals or replies by an agency pursuant to a competitive solicitation are exempt from inspection until such time as the agency provides notice of an intended decision or until thirty (30) days after the opening of the bids, proposals, or final replies, whichever is earlier.

Linda Jeethan, Procurement Manager  
Procurement Division

Publish Dates: Tuesday, March 1, 2022

# SECTION B

## INSTRUCTIONS TO BIDDERS

### 1. Format

The Contract Documents are divided into parts, divisions, and sections in keeping with accepted industry practice to separate categories of subject matter for convenient reference thereto. Generally, there has been no attempt to divide the specification sections into work performed by the various building trades, work by separate subcontractors, or work required for separate facilities in the project.

### 2. Point of Contact

To ensure fair consideration for all Bidders, the City prohibits communication to or with any department, elected official or employee during the submission process, other than the Procurement and Contracts Manager, regarding the requirements for this submittal. Any such contact may be considered grounds for disqualification. The City shall not be responsible for oral interpretations given by any City employee or its representative.

All inquiries concerning clarifications of this solicitation or for additional information shall be submitted via the eBid System "Questions" tab or by email and directed as follows:

Althea Pemsel, MA, CPSM, Procurement Supervisor, Email: [apemsel@coconutcreek.net](mailto:apemsel@coconutcreek.net)

All responses to questions/clarifications will be issued via the eBid System in the form of an addendum to all Bidders registered for this project. Such contact is to be for clarification purposes only. Material changes, if any, to the specifications, or proposal procedures will only be transmitted via the eBid System by addendum.

### 3. Schedule of Events

The City will use the following tentative time schedule in the selection process. The City reserves the right to change and/or delay scheduled dates.

Event	Date
IFB Available	March 1, 2022
Mandatory Pre-Bid Meeting (11:00 a.m. EST)	March 9, 2022
Last Date of Receipt of Questions (5:00 p.m. EST)	March 15, 2022 at 5:00pm
Addendum Release (if required)	March 21, 2022
Bid Due Date (11:00 a.m. EST)	April 5, 2022 at 3:00pm-EST
Invitation for Bid Review	Week of April 11, 2022
Commission Award of Contract	TBD

### 4. General Description of the Project

The project consists of milling and repaving of approximately 7.3 centerline miles (not lane mile) of City streets, new sidewalk construction, sidewalk and roadway repairs, installing ADA accessible sidewalk ramps, swale reconstruction, as well as the introduction of landscaping and beautification features within the right-of-way. The scope is indicated on the plans and is specified in applicable parts of these Contract Documents. Bidders shall rely on the plans, contract documents, and addenda in preparing their bid.



## 5. Definitions

The City will use the following definitions in its general conditions, special conditions, technical specifications, instructions to bidders, addenda and any other document used in the bidding process. The terms may be used interchangeably by the City: IFB or RFP; Bid or Proposal; Bidder, Proposer, or Seller; Contractor or Consultant; Contract, Award, Agreement or Purchase Order.

**Addendum:** A document that is subsequently issued prior to the opening of bids, which clarify, supplement, delete, modify, correct or change the bidding documents or the contract documents.

**Agreement / Contract:** A deliberate verbal or written agreement between two or more competent parties to perform or not to perform a certain act or acts, including all types of agreements, regardless of what they may be called, for the procurement or disposal of equipment, materials, supplies, services or construction. Contract shall be inclusive of the term "Agreement" unless stated otherwise.

**Bid:** A price and terms quote received in response to an IFB.

**Bidder:** One who submits a bid directly to the City as distinct from a Sub-Contractor, who submits a bid to the Bidder.

**City:** Refers to the City of Coconut Creek, a municipal corporation of the State of Florida.

**Change Order:** A written signed and approved document by the City Manager or designee ordering a change in the contract price or contract time or a material change in work.

**Consultant:** Architect or Engineer who has contracted with City or who is an employee of City, to provide professional services for this project.

**Contract Administrator:** Means assigned City Director or designee responsible for the management of all actions required for initiating and issuing procurements, along with all contract-related actions performed during the course of the work from award until closeout of the contract.

**Contract Documents:** Means the official documents setting forth bidding information, requirements, and contractual obligations for the Project and includes Articles 1 through 8 of this Contract, the Contract Supplement, the General Conditions, the Supplemental General Conditions, the Scope of Work, Invitation to Bid, Addenda, Standard Instructions for Vendors, Special Instructions for Vendors, Plans, Drawings, Exhibits, General Requirements, Technical Specifications, Bid Forms, Record of Award by Board, Bonds, Notice of Award, Notice(s) to Proceed, Supplements, Representations and Certifications, Certificates, Project Forms, Closeout Forms, Purchase Order(s), Change Order(s), Special Provisions, and any additional documents the submission of which is required by this Project. To the extent of any inconsistency between this Invitation for Bids and the Contract, the Contract language shall control.

**Contract Time:** Means the time between commencement and completion of the Work, including any milestone dates thereof, established in this Contract, as may be amended by Change Order.

**Contractor:** Successful Bidder who is awarded a Purchase Order, Contract, Blanket Purchase Order agreement, or Term Contract to provide goods or services to the City

**County Business Enterprise or CBE:** Means an entity certified as meeting the applicable requirements of Section 1-81, Broward County Code of Ordinances.

**Invitation for Bids (IFB):** When the City is requesting bids from qualified Bidders.

**Materials:** Means materials incorporated in this Project or used or consumed in the performance of the Work.

**Notice(s) to Proceed:** Means a written notice to Contractor authorizing the commencement of the activities identified in the notice or as described in the Contract Documents.

**OESBD:** Means Broward County's Office of Economic and Small Business Development.

**Plans or Drawings:** Means the official graphic representations of this Project that are a part of the Contract Documents.

**Project:** Means the construction project described in the Contract Documents, including the Work described therein.

**Project Initiation Date:** Means the date upon which the Contract Time commences.

**Responsive Bidder:** A person whose bid conforms in all material respects to the terms and conditions included in the IFB.

**Responsible Bidder:** A person who has the capability in all respects to perform in full the contract requirements, as stated in the IFB, and the integrity and reliability that will assure good faith performance.

**Seller:** Successful Bidder or Proposer who is awarded a Purchase Order or Contract to provide goods or services to the City.

**Small Business Enterprise or SBE:** means an entity certified as meeting the applicable requirements of Section 1-81, Broward County Code of Ordinances.

**Successful Bidder:** Means the best, qualified, responsible and responsive Bidder to whom the City (on the basis of City's evaluation as hereinafter provided) makes an award.

## 6. Cone of Silence

6.1 "Cone of Silence" means a prohibition on any communication regarding a particular Request for Proposals (RFP), Request for Qualifications (RFQ), Invitation for Bids (IFB), or other competitive solicitation between:

- (a) Any person who seeks an award therefrom, including a potential vendor or vendor's representative, and
- (b) The City Commission, City Attorney, City Manager, and all City employees, and any non-employee appointed to evaluate or recommend selection in such procurement process.

The Cone of Silence shall not apply to communications with the Procurement Official to obtain clarification or information concerning the subject solicitation. Any such contact other than the Procurement Official may be considered grounds for disqualification. The City shall not be responsible for oral interpretations given by any City employee or its representative. For purposes of this section, "vendor's representative" means an employee, partner, director, or officer of a potential vendor, or consultant, lobbyist, or actual or potential subcontractor or subconsultant of a vendor, or any other individual acting through or on behalf of any person seeking an award.

6.2 The Cone of Silence shall be applicable to each RFP, RFQ, IFB, or other competitive solicitation during the solicitation and review of responses. At the time of issuance of the solicitation, the Procurement Official shall include in any advertisement and public solicitation for goods and services a statement disclosing the requirements of this section.

6.3 The Cone of Silence shall terminate at the time the City awards or approves a contract, votes to reject all bids or responses, or otherwise takes action which ends the solicitation and review process.

6.4 Nothing contained herein shall prohibit any potential vendor or vendor's representative from:

- (a) Making public presentations at duly noticed pre-bid conferences or at meetings before a duly noticed Selection Committee;
- (b) Communicating with the City Commission during any duly noticed public meeting;
- (c) Communicating verbally or in writing with any City employee or official for the limited purpose of seeking clarification or additional information, when such employee is specifically designated in the applicable RFP, RFQ, IFB, or other competitive solicitation documents;
- (d) Communicating in writing with the Procurement Official or other staff person specifically designated in the procurement document.

The potential vendor or vendor's representative shall deliver a copy of any such written communication to the Office of the City Clerk, who shall make copies available to the public upon request. The written communication shall include a reference to the RFP, RFQ, IFB, or other competitive bid document number.

- 6.5 Any violation of this rule shall be investigated by the Procurement Official and the City Attorney's Office and/or the City Manager's Office and may result in disqualification of said violating potential vendor or any recommendation for award, or any RFP award, or IFB, or RFQ award to said violating potential vendor or vendor's representative being deemed void or voidable. The potential vendor or vendor's representative determined to have violated this rule, shall be subject to penalties up to and including debarment. In addition, to any other penalty provided by law, violation of this rule by a City employee shall subject the employee to disciplinary action up to and including termination.

## **7. Mandatory Pre-Bid Conference and Site Inspection**

All Bidders or their representatives are required to attend a mandatory pre-bid conference and site inspection on the date and time specified herein at the Coconut Creek Government Center, 4800 West Copans Road, Coconut Creek, Florida 33063. This information session presents an opportunity for the Bidders to clarify any concerns regarding bid requirements. Questions regarding the site and specifications will be answered and Bidders will be able to familiarize themselves with conditions that may affect the bid price.

The Bidder shall make careful examination of the project site, shall familiarize himself with existing conditions, and shall satisfy himself as to the quantity and quality of materials and workmanship required for the work. Submission of a bid will be construed that the Bidder is acquainted sufficiently with the work to be performed. He shall carefully and thoroughly examine the contract documents before submitting a bid.

**Note:** Failure to attend the mandatory pre-bid conference will automatically result in your bid response not being considered and deemed nonresponsive.

## **8. Document Interpretation**

The Contract Drawings governing the work proposed herein consist of the Drawings and all material made part of the contract document. These Contract Documents are intended to be mutually cooperative and to provide all details reasonably required for the execution of the proposed work. Any person contemplating the submission of a bid shall have thoroughly examined all of the various parts of these documents, and should there be any doubt as to the meaning or intent of said Contract Documents, the Bidder should contact Althea Pemsel, MA, CPSM, Procurement Supervisor, at Email [apemsel@coconutcreek.net](mailto:apemsel@coconutcreek.net). The last day for receipt of questions will be in accordance with the Schedule of Events. Any interpretation or change in said Contract Documents will be made only in writing, in the form of Addenda to the Documents which will be furnished to all Bidders receiving a set of the Documents. Bidders shall submit with their bids, or indicate receipt

of, all Addenda. The City will not be responsible for any other explanation or interpretations of said Documents not issued in writing by Addendum. All Addenda shall become part of the Contract Documents.

**9. Bidder's Understanding**

Each Bidder shall inform himself of the conditions relating to the execution of the work and it is assumed that he will inspect the site and make himself thoroughly familiar with all the Contract Documents. Failure to do so will not relieve the Successful Bidder of his obligation to enter into a Contract and complete the contemplated work in strict accordance with the Contract Documents. It shall be the Bidder's obligation to verify for himself and to his complete satisfaction all information concerning site and subsurface conditions.

Information derived from inspection of Drawings showing location of utilities and structures will not in any way relieve the Contractor from any risk, or from properly examining the sites and making such additional investigations as he may elect, or from properly fulfilling all the terms of the Contract Documents.

Each Bidder shall inform himself of, and the Bidder awarded a Contract shall comply with, federal, state and local laws, statutes, and ordinances relative to the execution of the work. This requirement includes, but is not limited to, design and construction standards, applicable regulations concerning minimum wage rates, nondiscrimination in the employment of labor, protection of public and employee safety and health, environmental protection, the protection of natural resources, fire protection, burning and non-burning requirements, permits, fees, and similar subjects.

**10. Qualifications of Contractors**

Bids shall be considered only from firms normally engaged in performing the type of work specified within the contract documents. Bidders shall have five (5) years or more experience and must not be listed in the System for Award Management (SAM) as an excluded party. Bidder must have adequate organization, facilities, equipment, and personnel to ensure prompt and efficient service to the City. The prospective Bidders must meet the statutorily prescribed requirements before Award of Contract.

In determining a Bidder's responsibility and ability to perform the contract, the City has the right to investigate and request information concerning the ability to perform the work under this contract, financial condition, experience record, personnel, equipment, facilities, principal business location, organization of the Bidder, the Bidder's record with environmental regulations, and the claims/litigation history of the Bidder.

**11. Licenses**

To be eligible for award of this project, the Bidder must possess at time of bid opening the following State Certified license:

- Florida State Licensed General Contractor

All licenses required for Bidders whose businesses and professions are regulated by the Florida Department of Business and Professional Regulation must be active and current. A copy of the State of Florida Certificate of Status or Good Standing, a copy of General Contractors License, and a copy of the Business Tax Receipt (must be in effect as required by Florida Statute 205.065 or as amended) must be provided with bid response.

**12. Legal Requirements**

The Bidder shall observe and comply with all federal, state, county laws and local ordinances, rules and regulations that apply to this Contract. Failure to familiarize himself/herself with applicable laws will in no way relieve him/her from responsibility.

**13. Addendum**

Changes in specification requirements will be issued on official addendum via the eBid System ([www.coconutcreek.net/fin/procurement](http://www.coconutcreek.net/fin/procurement)). The issuance of written addendum is the only official method whereby interpretation, clarification, changes or additional information can be given. It is the Bidder's responsibility to check the website prior to the proposal submittal deadline to ensure that the Bidder has a complete, up-to-date bid package.

**14. Drawings**

Drawings will be made available electronically via the eBid System only.

**15. Plans for Construction**

The Successful Bidder will be furnished four (4) sets of Contract Documents without charge. Any additional copies required will be furnished to the Bidder at reproduction cost.

**16. Type of Bid**

When the bid for the work is to be submitted on a unit price basis, unit price bids will be accepted on all items of work set forth in the bid, except those designated to be paid for as a lump sum. The estimate of quantities of work to be done is tabulated in the bid and, although stated with as much accuracy as possible, is approximate only and is assumed solely for the basis of calculation upon which the award of Contract shall be made. Payment to the Contractor will be made on the measurement of the work actually performed by the Contractor as specified in the Contract Documents. The City reserves the right to increase or decrease the amount of any class of work as may be deemed necessary, without any increase in the unit prices, unless otherwise specified in the Supplementary Conditions.

When the bid for the work is to be submitted on a lump sum basis, the lump sum price shall include all labor, materials, and equipment to complete the work described in the bid item included in the bid schedule. The bid items are intended to be general in nature and are not meant to be exhaustive in detail. Payment for all portions of the work associated with and necessary for the completion of a bid item shall be included in the lump sum price for that item whether or not it is mentioned specifically in the bid item description. All work described in the plans and specifications shall be accomplished and paid for as a part of one (1) or more bid items. If the Contractor believes that a portion of the work as described in the plans and specifications has not been included in any bid item, he shall bring this fact to the attention of the Contract Administrator at least one (1) week before the bids are to be received. Otherwise, it shall be assumed that the Contractor's bid includes reimbursement for all work described in the plans and specifications.

**17. Changes in Quantities (See Article 36 of the General Conditions of the Contract attached as Exhibit "A" for additional terms)**

The City reserves the right to increase or decrease the amount of any class of unit price work that may be deemed necessary. Scope may be reduced dependent upon funding availability.

**18. Quantities in Bid Approximate Only**

If the bid form contains unit price items, the quantities stated therein are approximate only and are intended to serve as a basis for the comparison of bids and to fix the approximate amount of the cost of the project. The City does not express or imply that the actual amount of the work done in the performance of the contract will correspond with the quantities in the bid form; the amount of work done may be more or less than the said quantities and may be increased or decreased by the

Contract Administrator as circumstances may require. The increase or decrease of any quantity shall not be regarded as grounds for an increase in the unit price or in the time allowed for the completion of the work, except as provided in the Contract Document. The Contractor will only be paid for the actual quantities of work performed and accepted by the Contract Administrator. The Contractor shall not be entitled to any compensatory damages in the event the quantities to be built are less than what are shown in the Bid Schedule.

**19. State and Local Sales and Use Taxes**

Unless Supplementary Conditions contains a statement that the City is exempt from State sales tax on materials incorporated into the work due to the qualification of the work under this Contract, all State and local sales and use taxes, as required by the laws and statutes of the State and its political subdivisions, shall be paid by the Contractor. Prices quoted in the bid shall include all nonexempt sales and use taxes, unless provision is made in the bid form to separately itemize the tax.

**20. Bids Firm for Acceptance**

Bidder warrants, by virtue of bidding that his bid and the prices quoted in his bid will be for acceptance by the City for a period of ninety (90) calendar days from the date of bid opening unless otherwise stated in the IFB.

**21. Bid Security**

Each Bidder shall include in their Bid Submittal a Bid Bond by the Due Date/Time (specified in the Schedule of Events stated herein) a certified check, cashier's check drawn on a local bank in good standing, or cash, or an acceptable Bid Bond issued by a Surety authorized to issue such bonds in the State of Florida in an amount equal to five percent (5%) of the amount of the bid payable to the City of Coconut Creek, Florida. This bid security shall be given as guarantee that the Bidder will not withdraw or modify his bid for a period of ninety (90) days after bid opening. as a guarantee that if the bid is accepted the Bidder will execute the contract.

The Attorney-in-Fact (Resident Agent) who executes this bond in behalf of the Surety must attach a notarized copy of his power-of-attorney as evidence of his authority to bind the Surety on the date of execution of the bond. If the Bidder elects to furnish a Bid Bond, he shall use the Bid Bond form found bound herewith, or one conforming substantially thereto in form and content.

**22. Return of Bid Security**

Within thirty (30) calendar days after the award of the Contract, the City will return the bid securities to all Bidders whose bids are not to be further considered in awarding the Contract. Retained bid securities will be held until the Contract has been finally executed, after which all bid securities, other than Bidders' bonds and any guarantees which have been forfeited, will be returned to the respective Bidders whose bids they accompanied.

**23. Performance and Payment Bonds/Qualification of Surety (See Articles 4 and 5 of the General Conditions of the Contract attached as Exhibit "A" for additional terms)**

23.1 Within ten (10) days after being notified of the award, Contractor shall furnish a Performance Bond and a Payment Bond containing all the provisions of the Performance Bond (Form 1) and Payment Bond (Form 2). Each Bond shall be in the amount of one hundred percent (100%) of the Contract Price guaranteeing to City the completion and performance of the Work covered in such Contract as well as full payment of all suppliers, laborers, and Subcontractors employed pursuant to this Project. Each Bond shall be with a surety company that is qualified per this section. Each Bond must name "Broward County" as an additional obligee.

- 23.2. Each Bond shall continue in effect for one (1) year after Final Completion and acceptance of the Work with liability equal to one hundred percent (100%) of the Contract Price, or an additional bond provided to ensure that Contractor will, upon notification by City, correct any defective or faulty work or materials that appear within one (1) year after Final Completion of this Contract.
- 23.3 Pursuant to the requirements of Section 255.05, Florida Statutes, Contractor shall ensure that the bond(s) referenced above shall be recorded in the Official Records of Broward County and provide City with evidence of such recording.
- 23.4 In lieu of a Performance Bond and a Payment Bond, Contractor may furnish alternate forms of security in the form of cash, money order, certified check, cashier's check, or unconditional letter of credit. Such alternate forms of security shall be subject to the approval of City and for same purpose, and shall be subject to the same conditions as those applicable above, and shall be held by City for one (1) year after completion and acceptance of the Work.
- 23.5 For all Bid Bonds, Performance Bonds, and Payment Bonds over \$500,000.00:
- 23.5.1 Each bond must be executed by a surety company of recognized standing, authorized to do business in the State of Florida as surety, having a resident agent in the State of Florida, and having been in business with a record of successful continuous operation for at least five (5) years.
- 23.5.2 The surety company shall hold a current Certificate of Authority as acceptable surety on federal bonds in accordance with United States Department of Treasury Circular 570, Current Revisions. If the amount of the Bond exceeds the underwriting limitation set forth in the circular, in order to qualify as a proper surety herein, the net retention of the surety company shall not exceed the underwriting limitation in the circular, and the excess risks must be protected by coinsurance, reinsurance, or other methods in accordance with Treasury Circular 297, Revised (31 C.F.R. §§ 223.10, 223.11). Further, the surety company shall provide City with evidence satisfactory to City that such excess risk has been protected in an acceptable manner.
- 23.5.3 A surety company that is rejected by City may be substituted by the Bidder or proposer with a surety company acceptable to City, but only if the bid amount does not increase.
- 23.5.4 All bonds shall be written through surety insurers authorized to do business in the State of Florida as surety, with the following qualifications as to management and financial strength according to the latest (1986 or later) edition of Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey:

<b>Amount of Bond</b>	<b>Policy Holder's Ratings</b>
<b>500,001 to 1,500,000</b>	<b>A III</b>
<b>1,500,001 to 2,500,000</b>	<b>A VI</b>
<b>2,500,001 to 5,000,000</b>	<b>A VII</b>
<b>5,000,001 to 10,000,000</b>	<b>A VIII</b>
<b>Over 10,000,001</b>	<b>A IX</b>

- 23.6 For projects that do not exceed \$500,000.00, City may accept a Bid Bond, Performance Bond, and Payment Bond from a surety company that has twice the minimum surplus and

capital required by the Florida Office of Insurance Regulation at the time the solicitation is issued, if the surety company is otherwise in compliance with the provisions of the Florida Insurance Code, and if the surety company holds a currently valid Certificate of Authority issued by the United States Department of the Treasury under Sections 9304 to 9308 of Title 31 of the United States Code. The Certificate and Affidavit (Form 4) so certifying should be submitted with the Bid Bond, Performance Bond, and Payment Bond.

23.7 More stringent requirements of any grantor agency may be set forth within the Supplemental Conditions. If there are no more stringent requirements, the provisions of this article shall apply.

**24. Cancellation for Unappropriated Funds**

The obligation of the City for payment to a Contractor is limited to the availability of funds appropriated in a current fiscal period, and continuation of the contract into a subsequent fiscal period is subject to appropriation of funds, unless otherwise authorized by law.

**25. Project Records (See Article 17 of the General Conditions of the Contract attached as Exhibit "A" for additional terms)**

25.1 Audit Rights and Retention of Records. Contractor shall preserve all Contract Records (as defined below) for a minimum period of five (5) years after expiration or termination of this Contract or until resolution of any audit findings, whichever is longer. Contract Records shall, upon reasonable notice, be open to inspection and subject to audit and reproduction during normal business hours. Audits and inspections pursuant to this article may be performed by any representative of City or Broward County (including any outside representative engaged by either entity). City and Broward County may conduct audits or inspections at any time during the term of this Contract and for a period of five (5) years after the expiration or termination of this Contract (or longer if required by law). City and Broward County may, without limitation, verify information, payroll distribution, and amounts through interviews, written affirmations, and on-site inspection with Contractor's employees, Subcontractors, vendors, or other labor.

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

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



- a) Compliance with Contract
- b) Compliance with City's code of ethics
- c) Compliance with Contract provisions regarding the pricing of Change Orders
- d) Accuracy of Contractor representations regarding the pricing of invoices
- e) Accuracy of Contractor representations related to claims submitted by Contractor including Subcontractors, or any of its other payees.

In addition to the normal documentation Contractor typically furnishes to City, in order to facilitate efficient use of City resources when reviewing or auditing Contractor's billings and related reimbursable cost records, Contractor agrees to furnish (upon request) the following types of information in the specified computer readable file format(s):

<b>Type of Record</b>	<b>File format</b>
Monthly Job Cost Detail	.pdf and Excel
Detailed Job Cost History to Date	.pdf and Excel
Monthly Labor Distribution detail (if not already separately detailed in the Job Cost Detail)	.pdf and Excel
Total Job to Date Labor Distribution detail (if not already included in the detailed Job Cost History to date)	.pdf and Excel
Employee Timesheets documenting time worked by all individuals who charge reimbursable time to the project	.pdf
Daily Foreman Reports listing names and hours and tasks of personnel who worked on the project	.pdf
Daily Superintendent Reports	.pdf
Detailed Subcontract Status Reports (showing original subcontract value, approved subcontract change orders, subcontractor invoices, payment to Subcontractors, etc.)	.pdf and Excel
Copies of Executed Subcontracts with all Subcontractors	.pdf
Copies of all executed Change Orders issued to Subcontractors	.pdf
Copies of all documentation supporting all reimbursable job costs (Subcontractor payment applications, vendor invoices, internal cost charges, etc.)	.pdf

- 25.3 Contractor shall, by written contract, require its Subcontractors to agree to the requirements and obligations of this article.
- 25.4 Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for City's disallowance and recovery of any payment reliant upon such entry.
- 25.5 If an audit inspection or examination in accordance with this article discloses overpricing or overcharges to City of any nature by Contractor or its Subcontractors in excess of five percent (5%) of the total contract billings reviewed, the reasonable actual cost of the audit conducted by City, Broward County, or the Independent Transportation Surtax Oversight Board shall be reimbursed by Contractor to City or Broward County (as applicable), along with any required adjustments for the overpricing or overcharges. Any adjustments or payments due as a result of any such audit or inspection shall be made within a reasonable amount of time (not to exceed thirty (30) days) from presentation of the audit findings to Contractor.

**26. Solid Waste Collection Services – City's Franchise Agreement**

The City has contracted with Republic Services of Florida, Limited Partnership d/b/a All Service Refuse to furnish solid waste and recycling collection services. The City grants to All Service

Refuse the sole and exclusive right, franchise, license and privilege to provide non-hazardous solid waste collection, removal and disposal services within the corporate limits of the City.

The successful Contractor shall coordinate with All Service Refuse the level and type of service to be provided and the manner of collection of charges.

**27. Sworn Statement – Public Entity Crimes Statement (See Section 7.4 of Contract attached as Exhibit “A” for additional terms)**

Pursuant to Paragraph 2(a) of Section 287.133, Florida Statutes, a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid for a contract to provide any goods or services to a public entity.

**28. Drug-Free Workplace Programs**

Preference shall be given to businesses with Drug-Free Workplace programs. Whenever two (2) or more bids which are equal with respect to price, quality and service are received by the City for the procurement of commodities or contractual services, a bid received from a business that completes the attached Drug-Free Workplace Form certifying that it is a Drug-Free Workplace shall be given preference in the award process.

**29. Debarred or Suspended Bidders**

The Contractor (Bidder) certifies, by submission of a response to this solicitation, that neither it nor its principals are presently debarred or suspended by any Federal department or agency.

**30. Time of Completion (See Article 43 General Conditions of Contract attached as Exhibit “A” for additional terms)**

The time of completion of the work to be performed under this Contract is in the essence of the Contract. Delays and extensions of time may be allowed only in accordance with the provisions stated in the appropriate section of the General Conditions. The time allowed for the completion of the work shall be stated in the bid.

**31. Confidential and/or Proprietary Information**

In accordance with Section 119.07(1)(a), Florida Statutes as amended from time to time and except as may be provided by other applicable state and federal law, the Invitation for Bids and the responses thereto are in the public domain. However, Bidders are requested to specifically identify in the submitted bid any financial information considered confidential and/or proprietary which may be considered exempt under Section 119.071, Florida Statutes as amended from time to time.

**32. Trade Secret (See Article 55 of General Conditions of Contract attached as Exhibit “A” for additional terms)**

Any material submitted to City that Contractor or Consultant contends constitutes or contains trade secrets or is otherwise exempt from production under Florida public records laws (including Chapter 119, Florida Statutes) (“Trade Secret Materials”) must be separately submitted and conspicuously labeled “EXEMPT FROM PUBLIC RECORD PRODUCTION – TRADE SECRET.” In addition, Contractor, or Consultant, as applicable, must, simultaneous with the submission of any Trade Secret Materials, provide a sworn affidavit from a person with personal knowledge attesting that the Trade Secret Materials constitute trade secrets under Section 812.081, Florida Statutes, and stating the factual basis for same. If a third party submits a request to City for records designated by Contractor, or Consultant as Trade Secret Materials, City shall refrain from disclosing the Trade Secret Materials, unless otherwise ordered by a court of competent jurisdiction or authorized in writing by Contractor, or Consultant, as applicable. Contractor or Consultant shall indemnify and defend, and shall require Contractor and Consultant to indemnify and defend, City and its employees and agents from any and all claims, causes of action, losses, fines, penalties, damages,

judgments and liabilities of any kind, including attorneys' fees, litigation expenses, and court costs, relating to the nondisclosure of any Trade Secret Materials in response to a public records request by a third party.

### 33. Modification and Withdrawal of Bid

- 34.1 All bids submitted shall be valid for a period of ninety (90) calendar days from the day of the bid opening. Bids may be modified or withdrawn **prior** to the due date for submitting electronic bids. Any bids not so withdrawn shall upon opening, constitute an irrevocable offer for goods and services until accepted by City Commission Award.
- 34.2 Bids may be retracted from the eBid System prior to the due date and time. Retracting a response allows the Bidder to change all or part of the response that was previously submitted. Retracting a response **does** not delete the response currently entered; however, by retracting your response, it is no longer submitted. You must click "Submit Response" on the Response Submission Tab for your retracted bid to be submitted again.
- 34.3 Withdrawal of a bid will not prejudice the rights of a Contractor to submit a new bid prior to the bid opening date and time. No bid may be withdrawn or modified after the date of bid opening has passed.
- 34.4 If within twenty-four (24) hours after bids are opened, and Contractor files a duly signed, written notice with the Procurement Office, and within five (5) calendar days thereafter demonstrates to the reasonable satisfaction of City, by clear and convincing evidence, that there was a material and substantial mistake in the preparation of its bid, or that the mistake is clearly evident on the face of the bid, but the intended correct bid is not similarly evident, Contractor may withdraw its bid and any bid security will be returned, if applicable.

### 34. Preparation of Bids

34.1 Bidders shall submit their response via the eBid System ([www.coconutcreek.net/fin/procurement](http://www.coconutcreek.net/fin/procurement)). Bidder shall upload the response **as one (1) file** to the eBid System. The maximum file size is 100 MB, however, that maximum applies to each file, not the bid itself. You are allowed an unlimited number of attachments with the 100 MB being the maximum file size.

34.2 Bidder's response shall not contain any alteration to the document posted other than entering data in spaces provided or including attachments as necessary. By submission of a response, Bidder affirms that a complete set of bid documents was obtained from the eBid System and no alteration of any kind has been made to the solicitation.

34.3 **The bid shall be signed by a representative who is authorized to contractually bind the Bidder.** The Bidder shall sign his bid in the blank space provided. If the Bidder is a corporation, the legal name of the corporation shall be set forth above, together with the signature of the officer or officers authorized to sign Contracts on behalf of the corporation. If Bidder is a partnership, the true name of the firm shall be set forth above, together with the signature of the partner or partners authorized to sign Contracts in behalf of the partnership. If signature is by an agent, other than an officer of a corporation or a member of a partnership, a notarized power-of-attorney must be on file with the City prior to opening of bids or submitted with the bid.

34.4 Any bid shall be deemed non-responsive which contains materials omissions, or irregularities, or in which any of the prices are obviously unbalanced, or which in any manner

shall fail to conform to the conditions of the published Invitation for Bids. Only one (1) bid from any individual, firm, partnership, or corporation, under the same or different names, will be considered. Should it appear to the City that any Bidder is interested in more than one (1) bid for work contemplated; all bids in which such a Bidder is interested will be rejected.

**35. Bid Submission**

Bidder shall use the electronic eBid System to submit a response.

**36. Basis of Award**

36.1 The Contract will be awarded to the responsive, responsible Bidder submitting the lowest acceptable bid. Responsive Bidder shall be defined as any person, firm or corporation submitting a bid for the work contemplated whose bid form is complete and regular, free of exclusions or special conditions and has no alternative bids for any items unless requested in the technical specifications. Responsible Bidder shall be defined as any person, firm, or corporation submitting a bid for the work contemplated who maintains a permanent place of business, has adequate equipment to do the work properly and within the time limit that is established, and has adequate status to meet his obligations contingent to the work. The City reserves the right to award the Contract that best serves the interests of the City.

36.2 If, at the time this Contract is to be awarded, the total of the lowest acceptable bid exceeds the funds estimated by the City as available, the City may reject all bids or take such other action, as best serves the City's interests.

36.3 The City of Coconut Creek, Florida, reserves the right to: waive informalities in any bid, delete or add any portion of the project, or extend or reduce the project within the limits of the work involved.

36.4 The City reserves the right to reject any and all bids for any reason where the City deems rejection to be in its best interest, or to reject any bid not in compliance with the Contract Documents.

36.5 A recommendation will be presented to the City Commission, based on lowest responsible and responsive bid which conforms to all requirements and whose evaluation by the City indicates to the City that the award will be in the best interest of the City. The City is the sole judge in evaluation considerations.

36.6 All Bidders will be notified in writing when the City Commission makes an award recommendation. The Contract award, if any, shall be made to the Bidder whose bid shall be deemed by the City Commission to be in the best interest of the City. The City Commission's decision of whether to make the award is in the best interest of the City and shall be final.

**37. Award of Contract**

Within seventy (70) calendar days after the opening of bids, or before May 31, 2022 unless otherwise stated in the Invitation for Bids or Contract Documents, the City will accept one (1) of the bids or will act in accordance with Basis of Award, below. The acceptance of the bid will be by written notice of award, mailed or delivered to the office designated in the bid. In the event of failure of the lower responsible and responsive qualified Bidder to sign and return the Contract with acceptable Performance and Payment Bonds, as prescribed herein, the City may award the Contract to the next lowest responsible and responsive qualified Bidder. Such award, if made, will be made within seventy (70) days after the opening of bids.

The City reserves the right to reject any and all bids and is not bound to accept the lowest bid. Bids

are awarded by the City and its decision shall be final. No Notice of Award will be given until the City has concluded such investigations as it deems necessary to establish the responsibility, qualifications and financial ability of the Bidders to do the work in accordance with the Contract Documents to the satisfaction of the City within the time prescribed. The City reserves the right to reject the bid of any Bidder who does not pass such investigation to the City's satisfaction. In analyzing bids, the City may take into consideration alternates and unit prices, if requested by the bid forms. If the Contract is awarded, the City will issue the Notice of Award and give the Successful Bidder a contract for execution and a purchase order within seventy (70) days after opening of bids.

**38. Execution of Contract**

The Successful Bidder shall, within ten (10) calendar days after receiving notice of award, sign and deliver to the City the Contract hereto attached together with the acceptable bonds as required in these Documents. Within ten (10) calendar days after receiving the signed Contract with acceptable bonds from the Successful Bidder, the City's authorized agent will sign the Contract. Signature by both parties constitutes execution of the Contract.

**39. Failure to Execute Contract and Furnish Bond**

The Bidder who has a Contract awarded to him and who fails to promptly and properly execute the Contract and furnish the Performance and Payment Bond shall not only lose the contract but shall also forfeit the bid security that accompanied his bid, and the bid security shall be retained as liquidated damages by the City, and it is agreed that this sum is a fair estimate of the amount of damages the City will sustain in case the Bidder fails to enter into a Contract and furnish the bond as herein before provided. Bid security deposited in the form of cash, a certified check, or cashier's check drawn on a local bank in good standing shall be subject to the same requirements as a Bid Bond.

**40. Bid Protest Process**

Any bidder, proposer, or offeror who is aggrieved in connection with the solicitation or award of a contract must contact the procurement officer listed in the solicitation in writing (email or fax are acceptable) within three (3) working days after the posting of the notice of intent to award on the City's eBid System. A formal written protest shall be filed within five (5) working days after filing the notice of protest.

The notice of protest must be either, hand-delivered and date and time stamped by the Office of the City Clerk, or sent via Certified U.S. mail, return-receipt requested. Failure to file a protest within the time-frame specified herein shall constitute a full waiver of all rights to protest the City's decision regarding the award of bid.

- (a) Only a bidder whose bid is timely received and fully complies with all terms and conditions of the bid may protest an award.
- (b) The written protest shall state in detail the specific facts and law or ordinance upon which the protest of the proposed award is based and shall include all pertinent documents and evidence.
- (c) Upon receipt of a formal written protest, the City may stop award proceedings until resolution of the protest; however, the award proceedings shall not be stopped if the City Manager decides the award must continue without delay in order to avoid an immediate and serious danger to the public health, safety, or welfare.
- (d) Any and all costs incurred by a protesting party in connection with a protest pursuant to this section shall be the sole responsibility of the protesting party.

A protest shall be reviewed and evaluated administratively and a decision in writing shall be forwarded to the protesting firm within ten (10) working days. If the protesting firm does not agree with the administrative decision, they may appeal the decision in writing to the City Manager or designee within five (5) working days. The notice of appeal must be either, sent Certified U.S. mail return-receipt requested or hand-delivered and date and time stamped by the Office of the City Clerk. The decision of the City Manager or designee will be final.

Any person who files a formal written protest shall post with the Chief Procurement Officer, at the time of filing the formal written protest a cashier's check made payable to the City of Coconut Creek in an amount equal to one percent (1%) of the City's estimate of the total amount of the contract or \$5,000.00, whichever is less.

If the decision of the City Manager or designee upholds the action taken by the City, then the deposit becomes non-refundable and the City shall retain the deposit as payment for a portion of the cost and expense, including but not limited to, time spent by City staff in responding to the protest and in conducting the evaluation of the protest. If the decision of the City Manager or designee does not uphold the action taken by the City, then the City shall return the amount of the cashier's check to the person or entity filing the protest.

**41. Antitrust Violations; Denial or Revocation of the Right to Transact Business with Public Entities; Denial of Economic Benefits**

Pursuant to Section 287.137, Florida Statutes effective July 1, 2021, a person or an affiliate who has been placed on the antitrust violator vendor list (electronically published and updated quarterly by the State of Florida) following a conviction or being held civilly liable for an antitrust violation may not submit a bid, proposal, or reply for any new contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply for a new contract with a public entity for the construction or repair of a public building or public work; may not submit a bid, proposal, or reply on new leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a new contract with a public entity; and may not transact new business with a public entity. A finding that a person or affiliate was on the antitrust violator vendor list prior to entering this Agreement will be cause to terminate this Agreement at the option of the City.

**SECTION C  
GENERAL TERMS AND CONDITIONS**

**ARTICLE 1 PRELIMINARY MATTERS**

**1.1 Contractor's Pre-Start Representative**

Contractor represents that he has familiarized himself with, and assumes full responsibility for having familiarized himself with the nature and extent of the Contract Documents, work, locality, and with all local conditions and federal, state, county, and local laws, ordinances, rules and regulations that may in any manner affect performance of the work, and represents that he has correlated his study and observations with the requirements of the Contract Documents. Contractor also represents that he has studied all surveys and investigation reports of subsurface and latent physical conditions referred to in the specifications and made such additional surveys and investigations as he deems necessary for the performance of the work in the Contract Documents and that he has correlated the results of all such data with the requirements of the Contract Documents.

**1.2 Pre-construction Conference and Project Schedule**

After delivery of the executed Agreement by City to Contractor, but before starting the work at the site, a pre-construction conference will be held. In that meeting, the Contractor shall present and submit a project schedule, identifying key milestones. Contractor's performance shall be monitored based upon this schedule.

**1.3 Rejection of Subcontractor (See Article 28 of General Conditions of Contract attached as Exhibit "A" for additional terms)**

If, prior to the Notice of Award, the City has reasonable objection to and refuses to accept any Subcontractor, person or organization listed, the apparent low Bidder may, prior to Notice of Award either (i) submit an acceptable substitute without an increase in his bid price or (ii) withdraw his bid without forfeiting his bid security.

**ARTICLE 2 CORRELATION, INTERPRETATION AND INTENT OF CONTRACT DOCUMENTS**

**2.1** It is the intent of the specifications and drawings to describe a complete project to be constructed in accordance with the Contract Documents. The Contract Documents comprise the entire Agreement between the City and the Contractor. They may be altered only by a written modification by the City and Contractor. The words "Contract" and "Agreement" shall have the same meaning and are used interchangeably.

In the event of a discrepancy/conflict between the requirements of the drawings and the requirements of the specifications manual or between requirements within any of the contract documents, those requirements which best serve the City shall take precedent. Determination of which requirements best serve the City shall be solely at the discretion of the City. Contractor shall not be entitled to any additional compensation related to City's determination.

**2.2** The words "furnish" and "furnish and install", "install", and "provide" or words with similar meaning shall be interpreted, unless otherwise specifically stated, to mean "furnish and install complete in place and ready for service".

**2.3** The work of all trades under this Contract shall be coordinated by the Contractor in such a manner as to obtain the best workmanship possible for the entire project, and all components of the work shall be installed or erected in accordance with the best practices

of the particular trade. All work shall meet the standards and codes of all regulatory agencies having jurisdiction over the Project whether or not mentioned in the Contract Documents. In case of conflict the most stringent standard shall prevail unless approved in advance by the Contract Administrator.

- 2.4** Manufacturer's literature, when referenced, shall be dated and numbered and is intended to establish the minimum requirements acceptable. Whenever reference is given to codes, or standard specifications or other data published by regulating agencies or accepted organizations, including but not limited to the National Electrical Code, applicable State Building Code, Federal Specifications, ASTM Specifications, various institute specifications, and the like, it shall be understood that such reference is to the latest edition including addenda in effect on the date of the bid.
- 2.5** Brand names where used in the technical specifications, are intended to denote the standard or quality required for the particular material or product. The term "equal" or "equivalent", when used in connection with brand names, shall be interpreted to mean a material or product that is similar and equal in type, quality, size, capacity, composition, finish, color and other applicable characteristics to the material or product specified by trade name, and that is suitable for the same use and capable of performing the same function, in the opinion of the Contract Administrator, as the material or product so specified. Proposed equivalent items must be approved by the Contract Administrator before they are purchased or incorporated in the work. (When a brand name, catalog number, model number, or other identification, is used without the phrase "or equal", the Contractor shall use the brand specified).

### **ARTICLE 3 SUBSURFACE CONDITIONS, REFERENCE POINTS**

**3.1 Subsurface Conditions (See Article 13 of General Conditions of Contract attached as Exhibit "A" for additional terms)**

The Contractor acknowledges that he has investigated prior to bidding and satisfied himself as to the conditions affecting the work, including but not restricted to those bearing upon construction, transportation, disposal, handling and storage of materials, availability of labor, water, electric power, roads and uncertainties of weather, river stages, tides, water tables or similar physical conditions at the site, the conformation and conditions of the ground, the character of equipment and facilities needed to and during prosecution of the work. The Contractor further acknowledges that he has satisfied himself as to the character, quality and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site, including all exploratory work on the site or any contiguous site, as well as from information presented by the Drawings and Specifications made part of this Contract, or any other information deemed appropriate by the Contractor for the successful completion the project. Any failure by the Contractor to acquaint himself with the site conditions will not relieve him from responsibility for estimating properly the difficulty or cost of successfully performing the work. The City assumes no responsibility for any conclusions or interpretations made by the Contractor.

**3.2 Differing Site Conditions (See Article 20 of General Conditions of Contract attached as Exhibit "A" for additional terms)**

- 3.2.1** If during the course of the Work Contractor encounters (1) subsurface or concealed conditions at the Project site that differ materially from those shown in the Contract Documents and from those ordinarily encountered and generally recognized as inherent in work of the character called for in this Contract; or (2) unknown physical



conditions of the Project site, of an unusual nature, which differ materially from that ordinarily encountered and generally recognized as inherent in work of the character called for in this Contract, then Contractor, without disturbing the conditions and before performing any Work affected by such conditions, shall, within twenty-four (24) hours of their discovery, notify Contract Administrator and Consultant in writing of the existence of the aforesaid conditions. Consultant and Contract Administrator shall, within two (2) business days after receipt of Contractor's written notice, investigate the site conditions identified by Contractor. If, in the sole opinion of Contract Administrator, the conditions do materially so differ and cause an increase or decrease in Contractor's cost of, or the time required for, the performance of any part of the Work, whether or not charged as a result of the conditions, Contract Administrator may recommend an equitable adjustment to the Contract Price, or the Contract Time, or both. If Contract Administrator and Contractor cannot agree on an adjustment in the Contract Price or Contract Time, the adjustment shall be referred to Consultant for determination in accordance with the provisions of Article 12. No request by Contractor for an equitable adjustment to this Contract under this provision shall be allowed unless Contractor has given written notice to Contract Administrator in strict accordance with the provisions of this article. No request for an equitable adjustment or change to the Contract Price or Contract Time for differing site conditions shall be allowed if made after the date certified by Contract Administrator as the date of Substantial Completion.

### **3.3 Location and Damage to Existing Facilities, Equipment or Utilities**

- 3.3.1 Utility lines in the Project area have been shown on the Plans. However, City does not represent or warrant that all lines are shown, or that the ones indicated are in their true location. Contractor must identify and locate all underground and overhead utility lines or equipment affecting or affected by the Project. Contractor will not be entitled to any additional payment or extension of time due to discrepancies between actual location of utilities and Plan location of utilities.
- 3.3.2 Contractor shall notify each utility company with facilities in the Project site, at least thirty (30) days prior to the start of construction, to arrange for positive underground location, relocation, or support of its utility where that utility may be in conflict with or endangered by the Work. The cost of relocation of water mains or other utilities for the convenience of Contractor shall be paid by Contractor. All charges by utility companies for temporary support of its utilities shall be paid for by City unless in a utility easement. All costs of permanent utility relocation to avoid conflict shall be the responsibility of the utility company involved. Contractor will not be entitled to any additional payment or extension of time for utility relocations, regardless of reason for relocation.
- 3.3.3 Contractor shall schedule the Work in such a manner that the Work is not delayed by the utility providers relocating or supporting their utilities. Contractor shall coordinate its activities with any and all public and private utility providers occupying the right-of-way. Contractor will not be entitled to any additional compensation or extension of time for any delay associated with utility relocation or support.
- 3.3.4 Contractor shall protect all overhead, surface, or underground structures and utilities from damage or displacement. Contractor will promptly and completely repair all damage to such structures within a reasonable time. All damaged utilities must be replaced or fully repaired to the satisfaction of the utility owner. All repairs are to be inspected by the utility owner prior to backfilling. City reserves the right to remedy

such damage by making such repairs or causing such repairs to be made at the expense of Contractor. City's expense in causing such repairs shall be deducted from Contractor's next Application for Payment.

**ARTICLE 4 INSURANCE REQUIREMENTS (See Article 7 of General Conditions of Contract attached as Exhibit "A" for additional terms)**

If the Contractor is required to go on to City of Coconut Creek property to perform work or services as a result of contract award, the Contractor shall assume full responsibility and expense to obtain all necessary insurance as required by City of Coconut Creek. Throughout the term of this Contract, Successful Bidder and/or any and all subcontractors or anyone directly or indirectly employed by either of them shall maintain in force insurance as follows:

**4.1 Workers' Compensation**

Statutory Limits of coverage to apply for all employees in compliance with all applicable State of Florida and federal laws. The policy must include Employers Liability with a limit of \$100,000 each accident.

**4.2 General Liability**

Commercial General Liability insurance with limits not less than \$1,000,000 each occurrence combined single limit for Bodily Injury and Property Damage including coverage for premises/operations, contractual liability, personal injury, explosion, collapse, underground hazard, products/completed operations, broad form property damage, cross liability and severability of interest clause. This policy of insurance shall be written in an "occurrence" based format.

**4.3 Automobile Liability**

Comprehensive or Business Automobile Liability insurance with limits not less than \$500,000 each occurrence combined single limit for Bodily Injury and Property Damage including coverage's for owned, hired, and non-owned vehicles and/or equipment as applicable. This policy of insurance shall be written in an "occurrence" based format.

**4.4 Builder's Risk Insurance**

Builder's Risk insurance is required in an amount not less than the replacement cost for the construction of the work. Coverage shall be "ALL RISK" coverage for one hundred percent (100%) of the completed value. The City reserves the right to require higher limits depending upon the scope of work under this agreement.

Neither Bidder nor any subcontractor shall commence work under this contract until they have obtained all insurance required under this section and have supplied the City with evidence of such coverage in the form of an insurance certificate and endorsement. The Bidder will ensure that all subcontractors will comply with the above guidelines and will maintain the necessary coverage throughout the term of this Agreement. Policies shall be "Occurrence" form. Each carrier will give the City sixty (60) days' notice prior to cancellation.

The Bidder's Worker's Compensation carrier will provide a Waiver of Subrogation to the City. The Bidder shall be responsible for the payment of all deductibles and self-insured retentions. The City requires that the Bidder purchase a bond to cover the full amount of the deductible or self-insured retention.

**4.5 General**

Should any of the required insurance be provided under a form of coverage that includes a

general annual aggregate limit and provides that claims investigation or legal defense costs be included in such general annual aggregate limit, such general annual aggregate limit shall be double the occurrence limits specified above.

Should any required insurance lapse during the Contract term, requests for payments originating after such lapse shall not be processed until the City receives satisfactory evidence of reinstated coverage as required by this Contract, effective as of the lapse date. If insurance is not reinstated, City may, at its sole option terminate this Agreement effective on the date of such lapse of insurance.

Auto Liability and General Liability policies shall be endorsed to provide the following:

- (a) Name as Additional Insured the City of Coconut Creek, Broward County, and Consultants and their Officers, Agents, Employees and Commission Members, as applicable.
- (b) That such insurance is primary to any other insurance available to the additional insured with respect to claims covered under the policy and that insurance applies separately to each insured against whom claims are made or suit is brought, but the inclusion of more than one insured shall not operate to increase the insurer's limit of liability.

All policies shall be endorsed to provide sixty (60) days prior written notice of cancellation, non-renewal or reduction in coverage or limits to:

City of Coconut Creek  
Procurement Division  
4800 West Copans Road  
Coconut Creek, Florida 33063

The issuing agency shall include full name, address and telephone number in each insurance certificate issued.

Certificates of Insurance, in form and evidencing all required insurance and endorsements, shall be submitted with the respondent's bid. If Bidder is Successful Bidder, then prior to commencement of Contract, Bidder must submit revised Certificate of Insurance naming the City of Coconut Creek as Additional Insured for all liability policies.

#### **4.6 Subcontractor Insurance Requirements**

Contractor shall require each Subcontractor to maintain insurance coverage that adequately covers the Services provided by that Subcontractor on substantially the same insurance terms and conditions required of Contractor under this article. Contractor shall ensure that all such Subcontractors comply with these requirements and that "City of Coconut Creek, Florida," "Broward County," and Consultant are named as additional insureds under the Subcontractors' applicable insurance policies. In the event Contractor or any Subcontractor fails to maintain the insurance required by the Contract Documents, City may pay any costs of premiums necessary to maintain the required coverage and deduct such costs from any payment otherwise due to Contractor. Contractor shall not permit any Subcontractor to provide services under the Contract unless and until the requirements of this section are satisfied. If requested by City, Contractor shall provide, within one (1) business day, evidence of each Subcontractor's compliance with this section.

#### **4.7 Insurance Company and Agent**

All insurance policies herein required of the Successful Bidder shall be written by a company with a A.M. Best rating of A-VII or better that is duly authorized and licensed to do business in the State of Florida and shall be executed by agents, thereof that are duly licensed as agents in said state.

**Note:** Include with your bid response a copy of **any** current Certificate of Insurance.

**4.8 Safety (See Article 47 of General Conditions of Contract attached as Exhibit “A” for additional terms)**

**Job Site**

The Contractor shall be solely and completely responsible for conditions of the job site, including safety of all persons (including employees) and property during performance of the work. This requirement shall apply continuously and not be limited to normal working hours. Safety provisions shall conform to U.S. Department of Labor (OSHA), Florida Department of Labor (DOL), and all other applicable federal, state, county, and local laws, ordinances, codes, and regulations. Where any of these are in conflict, the more stringent requirement shall be followed. The Successful Bidder’s failure to thoroughly familiarize himself with the aforementioned safety provisions shall not relieve him from compliance with the obligations and penalties set forth therein.

The City reserves the right, but is not obligated to make safety inspections at any time the Contractor is on public property and to ensure safety rules are not being violated. If violation becomes evident, the City may initiate its own action in addition to other government agencies.

**4.9 Occupational Health and Safety**

In compliance with Title 29 *CFR (Code of Federal Regulations)*, Section 1910.1200, any Hazardous Chemical items which are delivered from a Contract resulting from this Bid must be accompanied by a Material Safety Data Sheet (MSDS). The MSDS sheets must be maintained by the user agency and must include the following information:

4.9.1 The chemical name and the common name of the toxic substance.

4.9.2 The hazards or other risks in the use of the toxic substance, including:

- (a) The potential for fire, explosion, corrosiveness, and reactivity;
- (b) The known acute and chronic health effects of risks from exposure, including the medical conditions which are generally recognized as being aggravated by exposure to the toxic substance; and
- (c) The primary routes of entry and symptoms of overexposure.

4.9.3 The proper precautions, handling practices, necessary personal protective equipment, and other safety precautions in the use of or exposure to the toxic substances, including appropriate emergency treatment in case of overexposure.

4.9.4 The emergency procedure for spill, fire, disposal, and first aid.

4.9.5 A description in lay terms of the known specific potential health risks posed by the toxic substances intended to alert any person reading this information.

4.9.6 The year and month, if available, that the information was compiled and the name, address, and the emergency telephone number of the manufacturer responsible for preparing the information.

ALL TOXIC SUBSTANCES MUST BE LABELED FOR IDENTIFICATION IN ACCORDANCE WITH OSHA STANDARDS.

**4.10 Domestic Partnership Requirement (See Article 53 of General Conditions of Contract attached as Exhibit “A” for additional terms)**

Unless this Contract is exempt under Section 16½-157(c), Broward County Code of Ordinances, Contractor certifies and represents that it will comply with the provisions of Section 16½-157, Broward County Code of Ordinances, for the duration of this Contract, and the contract language referenced in Section 16½-157 is deemed incorporated in this Contract as though fully set forth in this section. The failure of Contractor to comply shall be a material breach of this Contract, entitling City to pursue any and all remedies provided under applicable law including, but not limited to (1) retaining all monies due or to become due Contractor until Contractor complies; (2) termination of this Contract; and (3) suspension or debarment of Contractor from doing business with City.

**4.11 Equal Employment Opportunity and CBE/SBE Compliance (See Article 54 of General Conditions of Contract attached as Exhibit “A” for additional terms)**

4.11.1 No party to this Contract may discriminate on the basis of race, color, sex, religion, national origin, disability, age, marital status, political affiliation, sexual orientation, pregnancy, or gender identity and expression in the performance of this Contract, except that any project assisted by the U.S. Department of Transportation funds shall comply with the nondiscrimination requirements in 49 C.F.R. Parts 23 and 26. Contractor shall include the foregoing or similar language in its contracts with any Subcontractors.

4.11.2 Contractor shall comply with all applicable requirements of Section 1-81, Broward County Code of Ordinances, in the award and administration of this Contract. Failure by Contractor to carry out any of the requirements of this article shall constitute a material breach of this Contract, which shall permit City to terminate this Contract or exercise any other remedy provided under this Contract, the Broward County Code of Ordinances, the Broward County Administrative Code, or under other applicable law, all such remedies being cumulative.

4.11.3 Contractor will meet the required CBE or SBE goal by utilizing the CBE or SBE firms listed in Exhibit V (or a CBE/SBE firm substituted for a listed firm, if permitted) for thirty percent (30%) of total Services under this Contract (the “Commitment”).

4.11.4 In performing the Services, Contractor shall utilize the CBE or SBE firms listed in Exhibit J for the scope of work and the percentage of work amounts identified on each Letter of Intent. Promptly upon execution of this Contract by City, Contractor shall enter into formal contracts with the CBE or SBE firms listed in Exhibit J and, upon request, shall provide copies of the contracts to the Contract Administrator and OESBD.

4.11.5 Each CBE or SBE firm utilized by Contractor to meet the CBE or SBE goal must be certified by OESBD. Contractor shall inform City immediately when a CBE or SBE firm is not able to perform or if Contractor believes the CBE or SBE firm should be replaced for any other reason, so that OESBD can review and verify the good faith efforts of Contractor to substitute the CBE or SBE firm with another CBE or SBE firm. Whenever a CBE or SBE firm is terminated for any reason, Contractor shall

provide written notice to OESBD and, upon written approval of the Director of OESBD, shall substitute another CBE or SBE firm in order to meet the CBE or SBE goal, unless otherwise provided in this Contract or agreed to in writing by the Parties. Such substitution shall not be required in the event the termination results from modification of the Scope of Services and no CBE or SBE firm is available to perform the modified Scope of Services; in which event, Contractor shall notify OESBD, and

OESBD may adjust the CBE or SBE goal by written notice to Contractor. Contractor shall not terminate a CBE or SBE firm for convenience without OESBD's prior written consent, which consent shall not be unreasonably withheld.

- 4.11.6 The Parties stipulate that if Contractor fails to meet the Commitment, the damages to City arising from such failure are not readily ascertainable at the time of contracting. If Contractor fails to meet the Commitment and Broward County determines, in the sole discretion of the OESBD Program Director, that Contractor failed to make Good Faith Efforts (as defined in Section 1-81, Broward County Code of Ordinances) to meet the Commitment, Contractor shall pay City liquidated damages in an amount equal to fifty percent (50%) of the actual dollar amount by which Contractor failed to achieve the Commitment, up to a maximum amount of ten percent (10%) of the total contract amount excluding costs and reimbursable expenses. An example of this calculation is stated in Section 1-81.7, Broward County Code of Ordinances. As elected by City, such liquidated damages amount shall be either credited against any amounts due from City, or must be paid to City within thirty (30) days after written demand. These liquidated damages shall be City's sole contractual remedy for Contractor's breach of the Commitment, but shall not affect the availability of administrative remedies under Section 1-81. Any failure to meet the Commitment attributable solely to force majeure, changes to the scope of work by City, or inability to substitute a CBE or SBE Subcontractor where the OESBD Program Director has determined that such inability is due to no fault of Contractor, shall not be deemed a failure by Contractor to meet the Commitment.
- 4.11.7 Contractor acknowledges that OESBD may make minor administrative modifications to Section 1-81, Broward County Code of Ordinances, which shall become applicable to this Contract if the administrative modifications are not unreasonable. Written notice of any such modification shall be provided to Contractor and shall include a deadline for Contractor to notify City in writing if Contractor concludes that the modification exceeds the authority under this section. Failure of Contractor to timely notify City of its conclusion that the modification exceeds such authority shall be deemed acceptance of the modification by Contractor.
- 4.11.8 OESBD may modify the Commitment in connection with any amendment, extension, modification, change order, or Work Authorization to this Contract that, by itself or aggregated with previous amendments, extensions, modifications, change orders, or Work Authorizations, increases the initial Contract price by ten percent (10%) or more. Contractor shall make a good faith effort to include CBE or SBE firms in work resulting from any such amendment, extension, modification, change order, or Work Authorization, and shall report such efforts, along with evidence thereof, to OESBD.
- 4.11.9 Contractor shall provide written monthly reports to the Contract Administrator and to the Director of OESBD attesting to Contractor's compliance with the Commitment. In addition, Contractor shall allow City and OESBD to engage in onsite reviews to monitor Contractor's progress in achieving and maintaining Contractor's contractual

and CBE or SBE obligations. The Contract Administrator or OESBD shall perform such review and monitoring.

4.11.10 The Contract Administrator may increase allowable retainage or withhold progress payments if Contractor fails to demonstrate timely payments of sums due to all Subcontractors and suppliers. The presence of a “pay when paid” provision in a Contractor’s contract with a CBE or SBE firm shall not preclude City or its representatives from inquiring into allegations of nonpayment.

**ARTICLE 5 CONTRACTOR'S RESPONSIBILITIES (See Article 14 of General Conditions of Contract attached as Exhibit “A” for additional terms)**

**5.1 Supervision and Superintendence**

5.1.1 City’s instructions are to be given through Consultant, which instructions Contractor must strictly and promptly follow in every case. Contractor shall keep on the Project a full-time, competent, English-speaking superintendent and any necessary assistants, all of whom must be satisfactory to Consultant. The superintendent shall not be changed except with the written consent of Consultant, unless the superintendent proves to be unsatisfactory to Contractor and ceases to be in its employ. The superintendent shall represent Contractor; all instructions given to the superintendent shall be as binding as if given to Contractor, and will be confirmed in writing by Consultant upon the written request of Contractor. Contractor shall provide efficient supervision of the Work, using its best skill and attention.

5.1.2 On a daily basis, Contractor’s superintendent shall record, at a minimum, the following information in a bound log: the day; date; weather conditions and how any weather condition affected progress of the Work; time of commencement of Work for the day; the Work being performed; materials, labor, personnel, equipment and Subcontractors at the Project site; visitors to the Project site, including representatives of City, Consultant, or regulatory representatives; any event that caused or contributed a delay to the critical path of the Project; any special or unusual conditions or occurrences encountered; and the time of termination of Work for the day. All information shall be recorded in the daily log in ink, unless otherwise approved by Consultant. The daily log shall be kept on or accessible from the Project site and shall be available at all times for inspection and copying by City and Consultant.

5.1.3 The Contract Administrator, Contractor, and Consultant shall meet at least every two (2) weeks (or as otherwise determined by the Contract Administrator) during the course of the Work to review and agree upon the Work performed to date and to establish the controlling items of Work for the next two (2) weeks. Consultant shall publish, keep, and distribute minutes and any comments thereto of each such meeting.

5.1.4 If Contractor, in the course of performing the Work, finds any discrepancy between this Contract and the physical conditions of the locality, or any errors, omissions, or discrepancies in this Contract, it shall be Contractor’s duty to immediately inform Consultant, in writing, and Consultant will promptly review same. Any Work done after such discovery, until authorized, will be done at Contractor’s sole risk, without entitlement to reimbursement or compensation.

5.1.5 Contractor shall supervise and direct the Work competently and efficiently, devoting

such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with this Contract. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction.

**5.2 Labor, Materials and Equipment (See Article 8 of General Conditions of Contract attached as Exhibit "A" for additional terms)**

The Contractor will provide competent, suitably qualified personnel to lay out the work and perform construction as required by the Contract Documents. He/She will at all times maintain good discipline and order at the site.

**5.3 Contractor Furnishes All Materials (See Article 8 of General Conditions of Contract attached as Exhibit "A" for additional terms)**

The Contractor shall furnish all materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, local telephone, water and sanitary facilities and all other facilities and incidentals necessary for the execution, testing, initial operation and completion of the work.

**5.4 Installation Instructions**

All materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable manufacturer, fabricator or processors, except as otherwise provided in the Contract Documents.

**5.5 Contractor Responsibilities (See Article 28 of General Conditions of Contract attached as Exhibit "A" for additional terms)**

The Contractor shall be fully responsible for all acts and omissions of his Subcontractors and of persons and organizations directly or indirectly employed by them and of persons and organizations for whose acts any of them may be liable to the same extent that he is responsible for the acts and omissions of persons directly employed by them. Nothing in the Contract Documents shall create any contractual relationship between the City and any Subcontractor or other person or organization having a direct contract with Contractor, nor shall it create any obligation on the part of the City to pay or to see to the payment of any persons due any Subcontractor or other person or organization, except as may otherwise be required by law. The City may furnish to any Subcontractor or other person or organization, to the extent practicable, evidence of amounts paid to Contractor on account of specific work done in accordance with the schedule of values.

**5.6 Subcontractors Terms**

The Contractor agrees to bind specifically every Subcontractor to the applicable terms and conditions of the Contract Documents for the benefit of the City.

**5.7 Permits (See Article 11 of General Conditions of Contract attached as Exhibit "A" for additional terms)**

The Contractor shall secure and pay for all maintenance of traffic (MOT), construction permits and licenses, etc. and shall pay for all governmental charges, inspection fees, and fines incurred by Contractor for his negligence, error or omission.

When such charges are normally made by the City and when so stated in the Special Conditions, there will be no charges to the Contractor. The City would assist the Contractor, if possible, in obtaining such permits and licenses. However, the Contractor shall pay all public utility charges or fees to other government agencies, where applicable.



**5.8 Electric Power and Lighting**

Electrical power required during construction shall be provided by the Contractor. This service shall be installed by a qualified electrical contractor approved by the Contract Administrator. Lighting shall be provided by the Contractor in all spaces at all times where necessary for good and proper workmanship, for inspection or for safety. No temporary power shall be used off temporary lighting lines without specific approval of the Contractor.

**5.9 Taxes**

Cost of all sales and other taxes for which the Contractor is liable under the Contract shall be included in the Contract Price stated by the Contractor.

**5.10 Record Drawings (See Articles 21 and 45 of General Conditions of Contract attached as Exhibit "A" for additional terms)**

The Contractor will keep one record copy of all Specifications, Drawings, Addenda, Modifications and Shop Drawings at the site in good order and annotated to show all changes made during the construction process. The Contractor must provide complete set of Record Drawings, on a USB flash drive and one full set of white lines, signed and sealed by a Registered Engineer in the State of Florida for all improvements. Final payment shall not be made to the Contractor unless completed record drawings have been submitted, approved and accepted by the City.

**5.11 Cleaning Up Site (See Article 50 of General Conditions of Contract attached as Exhibit "A" for additional terms)**

The Contractor shall clean up behind the work as much as is reasonably possible as the work progresses. Upon completion of the work, and before acceptance of final payment for the project by the City, the Contractor shall remove all his surplus and discarded materials, excavated material and rubbish from the roadways, sidewalks, parking areas, lawn and all adjacent properties; shall clean his portion of work involved in any building under this Contract, so that no further cleaning by the City is necessary prior to his occupancy; shall restore all property, both public and private, which has been disturbed or damaged during the prosecution of the work; and shall leave the entire project area in a neat and presentable condition.

**5.12 Cleaning Up General (See Article 50 of General Conditions of Contract attached as Exhibit "A" for additional terms)**

In case of dispute, the City may remove any debris and/or rubbish and charge the cost to the Contractor as the Contract Administrator shall determine to be just.

**5.13 Waste Removal Services**

Any Contractor or Subcontractor performing construction work within the City of Coconut Creek must use the City's franchised hauler for garbage removal services including construction related debris. The City's current franchised hauler is All Service Refuse. Please contact them directly for dumpsters and/or roll offs at:

All Service Refuse  
751 NW 31st Avenue  
Ft. Lauderdale, FL 33311  
(954) 583-1830

**5.14 Public Convenience and Safety (See Article 32 of General Conditions of Contract**

**attached as Exhibit "A" for additional terms)**

The Contractor shall, at all times, conduct the work in such manner as to insure the least practicable obstruction to public travel. The convenience of the general public and of the residents along and adjacent to the area of work shall be provided for in a satisfactory manner, consistent with the operation and local conditions. "Street Closed" and other traffic control signs shall be placed immediately adjacent to the work, in a conspicuous position, at such locations as traffic demands and as required by MOT, approved by the City, County and/or State. At any time that streets are required to be closed, the Contractor shall notify law enforcement agencies before the street is closed and again as soon as it is opened. Access to fire hydrants and other fire extinguishing equipment shall be provided and maintained at all times.

**5.15 Sanitary Provisions**

The Contractor shall provide on-site office if possible, and necessary toilet conveniences, secluded from public observation, for use of all personnel on the work, whether or not in his/her employ. They shall be kept in a clean and sanitary condition and shall comply with the requirements and regulations of the Public Authorities having jurisdiction. They shall commit no public nuisance. Temporary field office and sanitary facilities shall be removed by the Contractor at his own expense upon completion of the work, and the premises shall be left clean.

**5.16 Work in Street, Highway and Other Rights-of-Way**

Excavation, grading, fill, storm drainage, paving and any other construction or installations in rights-of-way of streets, highways, public carrier lines, utility lines (either aerial, surface or subsurface), etc., shall be done in accordance with requirements of the Contract Documents or, if not mentioned, shall be restored to their original condition or better. Upon completion of the work, Contractor shall present to the City certificates, in triplicate, from the proper authorities stating that the work has been done in accordance with their requirements.

**5.17 Hurricane Precautions (See Article 51 of General Conditions of Contract attached as Exhibit "A" for additional terms)**

5.17.1 During such periods of time as are designated by the United States Weather Bureau as being a hurricane warning or alert, the Contractor, at no cost to the City, shall take all precautions necessary to secure the Project site in response to all threatened storm events, regardless of whether the notice has been given by the City.

5.17.2 Compliance with any specific storm or hurricane watch/warning or alert precautions before or after such events will not constitute additional work for payment and will be part of Contractor's insurance.

5.17.3 Any additional time or work beyond the scope of this contract relating to hurricane warning or alert at the Project site will be addressed by a Change Order in accordance with Article 6 - Changes in the Work, if applicable.

5.17.4 Suspension of the work caused by a threatened or actual hurricane event shall entitle the Contractor to additional contract time as noncompensable, excusable delay, and shall not give rise to a claim for compensable delay.

**5.18 Value Engineering (See Article 34 of General Conditions of Contract attached as Exhibit “A” for additional terms)**

Should either party request a substitution that changes the contract such as requesting substitution of materials, articles, pieces of equipment or any changes that reduce the Contract Price shall make such a request to Contract Administrator in writing. Contract Administrator in consultation with the Consultant will be the sole judge of acceptability and no substitute will be ordered, installed, used or initiated without Contract Administrator's prior written acceptance, which will be evidenced by a Change Order processed with all required approvals and an approved Shop Drawing. However, any substitution accepted by Consultant shall not result in any increase in the Contract Price or Contract Time. If City initiates change, the City will be responsible for any changes initiated on its behalf. By making a request for substitution, Contractor agrees to pay directly to Consultant all Consultant's fees and charges related to Consultant's review of the request for substitution, whether or not the Consultant accepts the request for substitution. Any substitution submitted by Contractor must meet the form, fit, function and life cycle criteria of the item proposed to be replaced and there must be a net dollar savings including Consultant review fees and charges. If a substitution requested by the Contractor is approved, the net dollar savings shall be shared equally between Contractor and City and shall be processed as deductive Change Order. City may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute approved after award of the Contract.

**5.19 Public Records (See Article 55 of General Conditions of Contract attached as Exhibit “A” for additional terms)**

Contractor shall keep such records and accounts and require any and all Contractors and subcontractors to keep records and accounts as may be necessary in order to record complete and correct entries as to personnel hours charged to the project and any expenses for which Contractor expects to be reimbursed. Such books and records will be available at all reasonable times for examination and audit by City and shall be kept for a period of five (5) years after the completion of all work to be performed pursuant to this Agreement. Incomplete or incorrect entries in such books and records will be grounds for City's disallowance of any fees or expenses based upon such entries.

City is a public agency subject to Chapter 119, Florida Statutes. To the extent Contractor is a Contractor acting on behalf of the City pursuant to Section 119.0701, Florida Statutes as amended from time to time, Contractor shall comply with all public records laws in accordance with Chapter 119, Florida Statute. In accordance with state law, Contractor agrees to:

- 5.19.1 Keep and maintain all records that ordinarily and necessarily would be required by the City in order to perform the services.
- 5.19.2 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 copies within a reasonable time at a cost that does not exceed the costs provided in Chapter 119, Florida Statute, or as otherwise provided by law.
- 5.19.3 Ensure that public records that are exempt or confidential and exempt from public records disclosure are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the contract if the Contractor does not transfer the records to the City.

5.19.4 Upon completion of the services within this Agreement, at no cost, either transfer to the City all public records in possession of the Contractor or keep and maintain public records required by the City to perform the services. If the Contractor transfers all public records to the City upon completion of the services, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the services, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

5.19.5 **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLA. STAT., TO THE VENDOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CITY'S CUSTODIAN OF PUBLIC RECORDS AT 954-973-6774, PublicRecords@coconutcreek.net, 4800 West Copans Road, Coconut Creek, FL 33063.**

If Contractor does not comply with this Section, the City shall enforce the Agreement provisions in accordance herewith and may unilaterally cancel this Agreement in accordance with state law.

## **ARTICLE 6 CHANGES IN THE WORK/CHANGE ORDERS**

- 6.1 Changes in the quantity or character of the Work within the scope of the Project that cannot be accomplished by means of Field Orders or Supplemental Instructions, including all changes resulting in changes to the Contract Price or the Contract Time, shall be authorized only by Change Orders approved in advance and issued in accordance with the provisions of the City's Procurement Code, as amended from time to time.
- 6.2 Contractor shall not start work on any changes requiring an increase in the Contract Price or the Contract Time until a Change Order setting forth the adjustments is approved by City. Upon receipt of a Change Order, Contractor shall promptly proceed with the Work set forth in the Change Order.
- 6.3 In the event satisfactory adjustment cannot be reached for any item requiring a change in the Contract Price or Contract Time, and a Change Order has not been issued, City may, at its sole option, either terminate this Contract as it applies to the items in question and make such arrangements as City deems necessary to complete the work associated with the disputed item or submit the matter in dispute to Consultant as set forth in Section B: Instructions to Bidders, Item 41 – Bid Protest Process.
- 6.4 Under circumstances determined necessary by City, Change Orders may be issued unilaterally by City. During the pendency of the dispute, and upon receipt of a Change Order from City, Contractor shall promptly proceed with the change in the Work involved and advise Consultant and Contract Administrator in writing within seven (7) days after receipt of the Change Order of Contractor's agreement or disagreement with the method, if any, provided in the Change Order for determining the proposed adjustment in the Contract Price or Contract Time.

- 6.5** On approval of any Contract change increasing the Contract Price, Contractor shall promptly ensure that the performance bond and payment bond are increased so that each reflects the total Contract Price as increased. Contractor will promptly provide City such updated bonds.
- 6.5** The value of any Work covered by a Change Order or of any claim for an increase or decrease in the Contract Price shall be determined in one of the following ways:
- 6.5.1 If the Work involved is covered by unit prices contained in this Contract, by application of unit prices to the quantities of items involved, subject to the provisions of Section 6.12.
- 6.5.2 By mutual acceptance of a lump sum, which sum Contractor and City acknowledge contains a component for overhead and profit.
- 6.5.3 On the basis of the “cost of work,” determined as provided in Sections 6.6 and 6.8 , plus a Contractor’s fee for overhead and profit as determined in Section 6.9.
- 6.6** The term “cost of work” means the sum of all direct costs necessarily incurred and paid by Contractor in the proper performance of the Work described in the Change Order. Except as otherwise may be agreed to in writing by City, such costs shall be in amounts no higher than those prevailing in the locality of the Project; shall include only the following items; and shall not include any of the costs itemized in Section 6.8.
- 6.6.1 Payroll costs for employees in the direct employ of Contractor in the performance of the Work described in the Change Order under schedules of job classifications agreed upon by City and Contractor. Payroll costs for employees not employed full time on the Work covered by the Change Order shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise and payroll taxes, workers’ compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay application thereto. Such employees shall include superintendents and foremen at the site. The expenses of performing the Work after regular working hours, on Sunday or legal holidays, shall be included in the above to the extent authorized in advance by City.
- 6.6.2 Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and manufacturers’ field services required in connection therewith. All cash discounts shall accrue to Contractor unless City deposits funds with Contractor to make payments, in which case the cash discounts shall accrue to City. All trade discounts, rebates and refunds, and all returns from sale of surplus materials and equipment shall accrue to City, and Contractor shall make provisions so that they may be obtained. Rentals of all construction equipment and machinery, and the parts thereof, whether rented by Contractor, in accordance with rental agreements approved by City with the advice of Consultant, and the costs of transportation, loading, unloading, installation, dismantling and removal thereof, all in accordance with the terms of said agreements. City will not be responsible for the cost of the rental of any such equipment, machinery, or parts when the use thereof is no longer necessary for the Work.
- 6.6.3 Payments made by Contractor to Subcontractors for work performed by Subcontractors. If required by City, Contractor shall obtain competitive bids from Subcontractors acceptable to Contractor, and shall deliver such bids to City who will

then determine, with the advice of Consultant, which bids will be accepted. If the subcontract provides that the Subcontractor is to be paid on the basis of cost of the work plus a fee, the Subcontractor's cost of the work shall be determined in the same manner as Contractor's cost of the work. All Subcontractors shall be subject to the other provisions of this Contract insofar as applicable.

6.6.4 Cost of special consultants, including, but not limited to, engineers, architects, testing laboratories, and surveyors employed for services specifically related to the performance of the work described in the Change Order.

**6.7** Supplemental costs including the following:

6.7.1 All materials, supplies, equipment, machinery, appliances, office and temporary facilities, including transportation and maintenance thereof, at the site and hand tools not owned by the workers used in the performance of the Work, less market value of such items used but not consumed, and which items remain the property of Contractor.

6.7.2 Sales, use, or similar taxes related to the Work, imposed by any governmental authority, for which Contractor is liable.

6.7.3 The cost of utilities, fuel, and sanitary facilities at the site.

6.7.4 Cost of premiums for additional bonds and insurance required because of changes in the Work.

**6.8** The term "cost of the work" shall not include any of the following:

6.8.1 Payroll costs and other compensation of Contractor's officers, executives, principals (of partnership and sole proprietorships), general managers, engineers, architects, estimators, schedulers, lawyers, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks and other personnel employed by Contractor whether at the site or in its principal or a branch office, for general administration of the Work that are not specifically included in the agreed-upon schedule of job classifications referred to in subsection 39.2.1, all of which payroll costs and other compensation are to be considered administrative costs covered by Contractor's fee.

6.8.2 Expenses of Contractor's principal and branch offices other than Contractor's field office at the Project site.

6.8.3 Any part of Contractor's capital expenses, including but not limited to interest on Contractor's capital employed for the Work as well as charges against Contractor for delinquent payments.

6.8.4 Cost of premiums for all bonds and for all insurance, whether Contractor is required by this Contract to purchase and maintain the same, except for additional bonds and insurance required because of changes in the Work.

- 6.8.5 Costs due to the negligence or neglect of Contractor, any Subcontractors, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and repairing or remedying any damage to property.
- 6.8.6 Other overhead or general expense costs of any kind.
- 6.9** Contractor's fee for overhead and profit shall be determined as follows:
- 6.9.1 A mutually acceptable fixed fee, or if no fixed fee can be agreed upon;
- 6.9.2 A fee based on the following percentages of the various portions of the cost of the Work:
- (a) For costs incurred under subsections 6.6 (a) and 6.6 (b), Contractor's fee shall not exceed ten percent (10%).
  - (b) For costs incurred under subsection 6.6(c), Contractor's fee shall not exceed seven and one-half percent (7.5%); and if a subcontract is on the basis of cost of the work plus a fee, the maximum allowable to the Subcontractor as a fee for overhead and profit shall not exceed ten percent (10%); and
  - (c) No fee shall be payable on the basis of costs itemized under subsections 6.6(d) and 6.7(except subsection 6.7(c)) and Section 6.8.
- 6.10** The amount of credit to City for any change that results in a net decrease in cost will be the amount of the actual net decrease. When both additions and credits are involved in any one change, the combined overhead and profit shall be figured on the basis of the net increase, if any. Contractor shall not be entitled to claim lost profits for any Work not performed.
- 6.11** Whenever the cost of any Work is to be determined pursuant to Sections 6.6and 6.8, Contractor will submit in a form acceptable to Consultant an itemized cost breakdown together with the supporting data.
- 6.12** If the quantity of any item of the Work covered by a unit price is increased or decreased by more than twenty percent (20%) from the quantity of such Work indicated in this Contract, an appropriate Change Order shall be issued to adjust the unit price, if warranted.
- 6.13** Whenever a change in the Work is to be based on mutual acceptance of a lump sum, whether the amount is an addition, credit or no change-in-cost, Contractor shall submit an initial cost estimate acceptable to Consultant and Contract Administrator.
- 6.13.1 Such cost estimate shall include a breakdown listing the quantities and unit prices for materials, labor, equipment and other items of cost.

6.13.2 Whenever a change involves Contractor and one or more Subcontractors and the change is an increase in the Contract Price, overhead and profit percentage for Contractor and each Subcontractor shall be itemized separately.

**6.14** Each Change Order must state within the body of the Change Order whether it is based upon unit price, negotiated lump sum, or “cost of the work.”

**6.15** Notification and Claim for Change of Contract Time or Contract Price

6.15.1 Any claim for a change in the Contract Time or Contract Price shall be made by written notice by Contractor to the Contract Administrator and to Consultant within five (5) days of the commencement of the event giving rise to the claim or Contractor’s knowledge of the claim, and the notice shall state the general nature and cause of the claim. Thereafter, within twenty (20) days after the termination of the event giving rise to the claim or Contractor’s knowledge of the claim, Contractor shall submit written notice of the extent of the claim with supporting information and documentation to the Contract Administrator and Consultant (hereinafter “Claim Notice”). The Claim Notice shall include Contractor’s written notarized certification that the adjustment claimed is the entire adjustment to which Contractor has reason to believe it is entitled as a result of the occurrence the event giving rise to the claim. If the Contract Administrator and Contractor cannot resolve a claim for changes in the Contract Time or Contract Price within twenty (20) days after receipt of the Claim Notice by the Contract Administrator and Consultant, then Contractor shall submit the claim to Consultant within five (5) days from the date of impasse in accordance with Section B: Instructions to Bidders, Item 41 – Bid Protest Process. **IT IS EXPRESSLY AND SPECIFICALLY AGREED THAT ANY AND ALL CLAIMS FOR CHANGES TO THE CONTRACT TIME OR CONTRACT PRICE SHALL BE WAIVED IF NOT SUBMITTED IN STRICT ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION.**

6.15.2 The Contract Time will be extended in an amount equal to time lost on critical Work items due to delays beyond the control of and through no fault or negligence of Contractor if a claim for an extension in accordance with Item 6.15(a). Such delays shall include, but not be limited to, acts, omissions, or neglect by any separate contractor employed by City, fires, floods, labor disputes, epidemics, abnormal weather conditions or acts of God.

**ARTICLE 7 TIME FOR COMPLETION, LIQUIDATED DAMAGES AND CHANGE OF CONTRACT TIME (See Article 3 of the Contract and Articles 40,41, and 42 of the General Conditions of the Contract attached as Exhibit “A” for additional terms)**

**7.1** The time for completion of the work shall be two hundred and eighty (280) calendar days, which is an essential condition of the Contract Documents and the work embraced shall be commenced on a date specified in the Notice to Proceed.

**7.2** Contractor shall be instructed to commence the Work by written instruction in the form of a Purchase Order issued by City’s Director of Purchasing and two or more Notices to Proceed issued by the Contract Administrator. The first Notice to Proceed and Purchase Order will not be issued until Contractor’s submission to City of all required documents and after execution of this Contract by both Parties. Preliminary work, including submission of a project schedule, schedule of values, submittals, submittal schedule, and other documents required for permitting, and performance of work that does not require permits, shall commence within ten (10) days after the date of the first Notice to Proceed. Contractor shall have ten (10) days after receipt of signed and sealed contract Drawings from Consultant to apply for construction permits to the applicable permitting authority. Issuance of all permits



by the permitting authority shall be a condition precedent to the issuance of a second Notice to Proceed for all additional Work. Except for the reimbursement of permit application fees as may be provided in the Contract Documents, Contractor shall not be entitled to compensation of any kind during the permitting process. The Work to be performed pursuant to the second Notice to Proceed shall commence within ten (10) days after the Project Initiation Date specified in the second Notice to Proceed.

- 7.3** Time is of the essence throughout this Contract. Contractor must obtain Substantial Completion of the Work within 220 days from the Project Initiation Date specified in the Second Notice to Proceed, and Final Completion within 60 days from the date of Substantial Completion.
- 7.4** After Substantial Completion as referenced in Section 7.3, should Contractor fail to complete the remaining Work within the deadline stated in Section 3.2, as extended by approved time extensions thereof, Contractor shall pay to City the sum of five hundred Dollars (\$500.00) for each day after the deadline for Final Completion, as extended by any approved extensions, until Final Completion is obtained. These amounts are not penalties but are liquidated damages to City for its inability to obtain full beneficial occupancy and/or use of the Project. Liquidated damages are hereby fixed and agreed upon between the Parties based on (1) a mutual recognition of the impossibility of precisely ascertaining the amount of damages that will be sustained by City as a consequence of Contractor's failure to timely obtain Substantial Completion; and (2) both Parties' desire to obviate any question of dispute concerning the amount of said damages and the cost and effect of the failure of Contractor to complete this Contract on time. These liquidated damages shall apply separately to each portion of the Project for which a deadline for completion is given.
- 7.5** City may deduct liquidated damages from monies due to Contractor for the Work under this Contract or as much thereof as City may, in its sole discretion, deem just and reasonable.
- 7.6** Contractor shall reimburse City, in addition to liquidated damages, for all costs incurred by Consultant in administering the construction of the Project beyond the completion dates specified above, as extended by any approved time extensions. Consultant construction administration costs shall be in the amounts set forth in the contract between City and Consultant, a copy of which is available upon request of the Contract Administrator. All such costs shall be deducted from the monies due Contractor for performance of Work under this Contract by means of unilateral credit Change Orders issued by City as costs are incurred by Consultant and agreed to by City
- 7.7** **No Damages for Delay**

No claim for damages or any claim, other than for an extension of time, shall be made or asserted against City by reason of any delays except as provided herein. Contractor shall not be entitled to an increase in the Contract Price or payment or compensation of any kind from City for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency, arising from delay, disruption, interference or hindrance from any cause whatsoever, whether such delay, disruption, interference or hindrance be reasonable or unreasonable, foreseeable or unforeseeable, or avoidable or unavoidable. Contractor shall be entitled only to extensions of the Contract Time as the sole and exclusive remedy for such resulting delay, in accordance with and to the extent specifically provided above; provided, however, that this provision shall not preclude recovery of damages by Contractor for actual delays due solely to fraud, bad faith, or active interference on the part of City or its Consultant.

## **7.8 Excusable Delay; Compensable; Non-Compensable**

7.8.1 Excusable Delay. Delay that extends the completion of the Work and that is caused by circumstances beyond the control of Contractor or its Subcontractors, suppliers, or vendors are Excusable Delay. Contractor is entitled to a time extension of the Contract Time for each day the Work is delayed due to Excusable Delay. Contractor shall document its claim for any time extension as provided in Section 6.15 hereof. Failure of Contractor to comply with Section 6.15 hereof as to any particular event of delay shall be deemed conclusively to constitute a waiver, abandonment, or relinquishment of any and all claims resulting from that particular event of delay. Excusable Delay may be compensable or non-compensable, as provided below.

7.8.2 Compensable Excusable Delay. Excusable Delay is compensable when (i) the delay extends the Contract Time; (ii) is caused by circumstances beyond the control of Contractor or its Subcontractors, suppliers or vendor; and (iii) is caused solely by fraud, bad faith or active interference on the part of City or its agents. In no event shall Contractor be compensated for interim delays that do not extend the Contract Time.

Contractor shall be entitled to direct and indirect costs for Compensable Excusable Delay. Direct costs recoverable by Contractor shall be limited to the actual additional costs allowed pursuant to Article 6 hereof.

7.8.3 City and Contractor recognize and agree that the amount of Contractor's precise actual indirect costs for delay in the performance and completion of the Work is impossible to determine as of the date of execution of this Contract, and that proof of the precise amount will be difficult. Therefore, indirect costs recoverable by Contractor shall be liquidated on a daily basis for each day the Contract Time is delayed due to a Compensable Excusable Delay. These liquidated indirect costs shall be paid to compensate Contractor for all indirect costs caused by a Compensable Excusable Delay, and shall include, but not be limited to, lost profits, all profit on indirect costs, home office overhead, acceleration, loss of earnings, loss of productivity, loss of bonding capacity, loss of opportunity and all other indirect costs incurred by Contractor. The amount of liquidated indirect costs recoverable shall be Five Hundred Dollars (\$500.00) per day for each day this Contract is delayed due to a Compensable Excusable Delay.

7.8.4 Non-Compensable Excusable Delay. When Excusable Delay is (i) caused by circumstances beyond the control of Contractor, its Subcontractors, suppliers and vendors; (ii) is caused by circumstances beyond the control of City or Consultant; or (iii) is caused jointly or concurrently by Contractor or its Subcontractors, suppliers or vendors and by City or Consultant, then Contractor shall be entitled only to a time extension and no further compensation for the delay.

## **ARTICLE 8 WARRANTY/GAURANTEE PERIOD (See Articles 24 and 26 of General Conditions of Contract attached as Exhibit "A" for additional terms)**

8.1 The warranty and defective work shall also be governed by Contract Articles 24 and 26. Contractor shall guarantee all materials and equipment furnished and work performed for a period of two (2) years from the date of acceptance of the project and/or system. The Contractor warrants and guarantees for a period of two (2) years from the date of acceptance that the completed project and/or system is free from all defects due to faulty materials or workmanship and the Contractor shall promptly make such corrections as may

be necessary by reason of such defects including the repairs of any damage to other parts of the system resulting from such defects. The City will give notice of observed defects with reasonable promptness. In the event that the Contractor should fail to make such repairs, adjustments, or the work that may be made necessary by such defects, the City may do so and charge the Contractor the cost thereby incurred. The Performance Bond shall remain in full force and effect through the guarantee period. This Article shall be governed by the City's Code.

## **ARTICLE 9 PAYMENTS AND COMPLETION**

### **9.1 Supplemental Wage Requirements**

- 9.1.1 This Project is not federally funded. If the price of this Contract is in excess of Two Hundred Fifty Thousand Dollars (\$250,000.00), the following sections shall apply.
- 9.1.2 The rate of wages and fringe benefit payments for all laborers, mechanics, and apprentices shall not be less than those payments for similar skills in classifications of work in a like construction industry as determined by the Secretary of Labor and as the most recently published in the Federal Register.
- 9.1.3 All mechanics, laborers, and apprentices, employed or working on the site of the Work shall be paid in accordance with the above referenced wage rates. Contractor shall post this section of the Contract (Supplemental Wage Requirements) at the site of the Work in a prominent place where it can be easily seen by the workers.
- 9.1.4 If the Parties cannot agree on the proper classification of a particular class of laborers or mechanics or apprentices that will be used on the Work site, the Contract Administrator shall submit the question, together with its recommendation, to the City Manager for final determination, which shall be binding.
- 9.1.5 In the event the Contract Administrator determines that any laborer or mechanic or apprentice employed by Contractor or any Subcontractor on the site of the Work has been or is being paid wages less than the rate of wages required by the Prevailing Wage Ordinance, Section 26-5 of the Broward County of Ordinances, as amended, the Contract Administrator may (1) by written notice to Contractor direct Contractor to terminate the Work or such part of Work for which there has been a failure to pay said required wages; and (2) contract with another party perform the Work or portion thereof to completion. Whereupon, Contractor and its Sureties shall be liable to City for any all costs incurred by City to complete such Work to the extent such costs exceed any amounts that Contractor would be due for performance of such Work.
- 9.1.6 Contractor shall maintain payrolls and basic records relating thereto during the course of the Work and shall preserve such for a period of three (3) years thereafter for all laborers, mechanics, and apprentices working at the site of the Work. Such records shall contain the name and address of each such employee; the employee's current classification; rate of pay (including rates of contributions for, or costs assumed to provide, fringe benefits); daily and weekly number of hours worked; deductions made; and actual wages paid.
- 9.1.7 Contractor shall submit, with each application for payment, a signed and sworn "Statement of Compliance" (007500-8) attesting to compliance with the Prevailing Wage Ordinance, Section 26-5 of the Broward County of Ordinances, as amended.

- 9.1.8 The Contract Administrator may withhold or cause to be withheld from Contractor so much of the payments requisitioned as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and guards employed by Contractor or any Subcontractor on the work, the full amount of wages required by this Contract.
- 9.1.9 If Contractor or any Subcontractor fails to pay any laborer, mechanic, or apprentice employed or working on the site of the Work all or part of the wages required by this Contract, the Contract Administrator may, after written notice to Contractor, take such action as may be necessary to cause suspension of any further payments or advances until such violations have ceased.

## **9.2 Progress Payments**

- 9.2.1 Contractor may make an application for payment (“Application for Payment”), at intervals of not more than once a month, for Work completed during the Project. Contractor shall, where the Project involves CBE or SBE Subcontractors, make Application for Payment, at monthly intervals, for Work completed by such Subcontractors during the Project. Contractor’s applications shall show a complete breakdown of the Project components, the quantities completed, and the amount of payment sought, together with such supporting evidence as may be required by Consultant or Contract Administrator. Contractor shall submit with each Application for Payment: an updated progress schedule acceptable to Consultant as required by the Contract Documents; a Certification of Payments to Subcontractors Form (Form 9); a statement indicating the cumulative amount of CBE or SBE participation to date; and a release of claims relative to the Work that was the subject of previous applications or consent of surety relative to the Work that is the subject of the Application for Payment. If Contractor has not made payment to a Subcontractor, the Certification of Payments to Subcontractors Form shall be accompanied by a copy of the notification sent to each Subcontractor (listed in Item 2 of the Form) to whom payment has not been made, explaining the good cause why payment was not made. When applicable, an Application for Payment shall be accompanied by a completed Statement of Wage Compliance Form (Form 8A or 8B). Each Application for Payment shall be submitted in triplicate to the Contract Administrator for approval as follows:

Randall Blanchette, Engineering Manager  
City of Coconut Creek  
Utilities & Engineering Department  
5295 Johnson Road  
Coconut Creek, FL 33073

All Applications for Payment shall be stamped as received on the date on which they are delivered in the manner specified above. Payments of Applications for Payment shall be subject to approval as specified hereinbefore, and if approved shall be due twenty-five (25) business days after the date on which the Application for Payment is stamped received. At the end of the twenty-five (25) business days, Contractor may send the Contract Administrator an overdue notice. If the Application for Payment is not rejected within four (4) business days after delivery of the overdue notice, the Application for Payment shall be deemed accepted, except for any portion of the Application for Payment that City determines to be fraudulent or misleading. If the Application for Payment does not meet the requirements of this Contract, City shall reject the Application for Payment within twenty (20) business

days after the date stamped received and said rejection shall specify the deficiency and the action necessary to cure that deficiency. If Contractor submits a request that corrects the deficiency, the corrected Application for Payment must be paid or rejected within ten business days after the corrected Application for Payment is stamped as received.

9.2.2 City may withhold retainage on each progress payment as set forth in Section 255.078, Florida Statutes, as may be amended during this Contract. Any reduction in retainage below the maximum amount set forth in Section 255.078, Florida Statutes, shall be at the sole discretion of the Contract Administrator, as may be recommended by Consultant. Any interest earned on retainage shall accrue to the benefit of City.

9.2.3 City may withhold, in whole or in part, payment with respect to any Application for Payment to such extent as may be necessary to protect itself from loss on account of:

- (a) Defective work not remedied.
- (b) Claims filed or reasonable evidence indicating probable filing of claims by other parties against Contractor or City relating to Contractor's performance.
- (b) Failure of Contractor to make payments properly to Subcontractors or for material or labor.
- (d) Damage to another contractor not remedied.
- (e) Liquidated damages and costs incurred by Consultant for extended construction administration.
- (f) Failure of Contractor to provide documents required by the Contract Documents.

When the above grounds are removed or resolved to the satisfaction of the Contract Administrator, any withheld payment shall be made to the extent otherwise due.

## **ARTICLE 10 PUBLIC OUTREACH**

**10.1** Contractor shall provide at his/her own cost public outreach in areas where residents and public are impacted per the direction of the Project Manager. For example, where work is directly adjacent to driveways, Contractor must provide door hangers as well as electronic signage in the area and where work involves collector roads not adjacent to driveways, electronic signage would be sufficient.

## SECTION D

### SPECIAL CONDITIONS AND SUPPLEMENTARY CONDITIONS

- A. It is the City's goal to minimize the inconvenience of this work on its residents. Accordingly, the work hours for this project are restricted to Monday to Friday from 9:00 a.m. to 4:00 p.m. Should the Contractor wish for the City to consider alternate hours due to extenuating circumstances, then a request must be made in writing/email to the City's Project Manager for approval by the City.
- B. All work done by the Contractor or any Sub-Contractor shall be done with minimal disturbance to the building occupants of the City. The noise level shall be kept at reasonable but at low levels.
- C. All bid prices shall remain in effect until the project is completed. Under extreme circumstances and documented by acceptable proof, the City, at its sole discretion, may agree to price adjustments. Otherwise, all bid prices shall remain firm.
- D. All CONTRACTOR personnel and subcontractors shall demonstrate and maintain a courteous and responsible demeanor toward all persons while conducting business within the CITY. The CITY reserves the right to have CONTRACTOR permanently remove (from servicing the CITY) any of CONTRACTOR'S personnel that, in the opinion of the CITY, is not maintaining a professional, courteous and responsible demeanor at all times.
- E. CONTRACTOR understands that engineering inspections take place during normal business hours between 7:00 am and 6:00 pm Monday through Thursday.

### MUNICIPAL SURTAX PROJECT REQUIREMENTS

CONTRACTOR must follow the instructions included in the **Office of Economic and Small Business Development Requirements** section and submit all required forms and information as instructed.

- A. On September 25, 2018 (Item No. 69), the Board of County Commissioners of Broward County, Florida, (County Commission) adopted a thirty percent (30%) County Business Enterprise Program (CBE) participation goal for projects funded with proceeds from the transportation surtax. The project that is the subject of this solicitation will be funded with proceeds from the transportation surtax. Therefore, the Broward County Business Opportunity Act of 2012, Section 1-81, Broward County Code of Ordinances, as amended (the "Business Opportunity Act" or "CBE Program"), is applicable to this solicitation and the contract that will result from this solicitation. All vendors/firms responding to this solicitation are required to utilize CBE firms to perform the assigned participation goal for this contract.
- B. The Broward County Office of Economic and Small Business Development (OESBD) has established the CBE participation goal for this project based upon the proposed scope of services/work for the project. Potential alternate/additional scopes of services/work, optional services and allowances were not considered by OESBD when the CBE participation goal for this project was established. If the Municipality subsequently chooses to authorize any alternate/additional scopes of services/work, optional services and/or allowances, that are determined by OESBD and the Contract Administrator to be funded with proceeds from the transportation surtax, OESBD may apply the established CBE participation goal to the alternate/additional services/work, optional services, and/or allowances. In such an instance, the Municipality will issue a written notice to the successful vendor/firm that the CBE participation goal will also apply to the alternate/additional services/work and/or allowances. The selected

Contractor/firm shall submit all required forms pertaining to its compliance with the CBE participation goal, as applicable. Failure by vendor/firm to submit the required forms regarding CBE participation may result in the rejection of vendor's/firm's solicitation submittal.

- C. CBE Program Requirements: Compliance with CBE participation goal requirements is a matter of responsibility (or the Municipality's equivalent); Contractors/firms should submit all required forms and information with its solicitation submittal. If the required forms and information are not provided with the vendor's/firm's solicitation submittal, then Contractor/firm must supply the required forms and information no later than three (3) business days after receipt of a request from OESBD. Contractor/firm may be deemed non-responsible (or the Municipality's equivalent) for failure to fully comply with CBE Program Requirements within these stated timeframes.
1. Contractor/firm should include in its solicitation submittal a Letter of Intent Between Bidder/Offeror and County Business Enterprise (CBE) Subcontractor/Supplier for each CBE firm the Contractor intends to use to achieve the assigned CBE participation goal. The form is available at the following link: <https://www.broward.org/EconDev/SmallBusiness/Documents/SurtaxProjectsServicesIntent.pdf>
  2. If Contractor/firm is unable to attain the CBE participation goal, Contractor/firm should include in its solicitation submittal an Application for Evaluation of Good Faith Efforts and all required supporting information. The form is available at the following link: <https://www.broward.org/EconDev/SmallBusiness/Documents/GoodFaithEffortsEvaluation.pdf>
- D. OESBD maintains an online directory of CBE firms. The online directory is available for use by Contractors/firms at <https://www.broward.org/EconDev/DoingBusiness/Pages/CertifiedFirmDirectories.aspx> Office of Economic and Small Business Development CBE Goals
- E. For detailed information regarding the CBE Program contact the OESBD at (954) 357-6400 or visit the website at: <https://www.broward.org/EconDev/Pages/localcertificationprograms.aspx>
- F. If awarded the contract, vendor/firm agrees to and shall comply with all applicable requirements of the Business Opportunity Act and the CBE Program in the award and administration of the contract including, but not limited to, the following:
1. Contractor/firm may not discriminate on the basis of race, color, sex, religion, national origin, disability, age, marital status, political affiliation, sexual orientation, pregnancy, or gender identity and expression in the performance of this contract.
  2. All entities that seek to conduct business with the Municipality, including Contractor/firm or any Prime Contractors, Subcontractors, and Bidders, shall conduct such business activities in a fair and reasonable manner, free from fraud, coercion, collusion, intimidation, or bad faith. Failure to do so may result in the cancellation of this solicitation, cessation of contract negotiations, revocation of CBE certification, and suspension or debarment from future contracts.
  3. If Contractor/firm fails to meet or make Good Faith Efforts (as defined in the Business Opportunity Act) to meet the CBE participation commitment (the "Commitment"), then Contractor shall pay the Municipality liquidated damages in an amount equal to fifty percent (50%) of the actual dollar amount by which Vendor failed to achieve the Commitment, up to a maximum amount of ten percent (10%) of the total contract amount, excluding costs and

reimbursable expenses. An example of this calculation is stated in Section 1-81.7, Broward County Code of Ordinances.

4. Contractor/firm shall comply with all applicable requirements of the Business Opportunity Act in the award of the contract. Failure by vendor/firm to carry out any of these requirements shall constitute a material breach of the contract, which shall permit the Municipality to terminate the contract or to exercise any other remedy provided under the contract or other applicable laws, with all such remedies being cumulative.
5. Contractor/firm shall pay its CBE subcontractors and suppliers, within fifteen (15) days following receipt of payment from the Municipality, for all completed subcontracted work and supplies. If Contractor/firm withholds an amount from CBE subcontractors or suppliers as retainage, such retainage shall be released and paid within fifteen (15) days following receipt of payment of retained amounts from the Municipality.
6. Contractor/firm understands that the Municipality and County will monitor vendor's/firm's compliance with the CBE Program requirements. Contractor/firm must provide the Municipality with a Monthly Utilization Report (MUR) by the 10th of each month to confirm its compliance with the Commitment agreed to in the contract; MURs can be submitted to the Municipality at City of Coconut Creek, Attention: Randall Blanchette , Engineering Manager, Utilities & Engineering Department, 5295 Johnson Road, Coconut Creek, FL 33073 and online through the Broward County's Contracts Central application, at the following webpage: <https://www.broward.org/Purchasing/Pages/icontractscentral.aspx>. Timely submission of the MUR every month throughout the term of the contract, including amendment and extension terms, is a condition precedent to the Municipality's payment of Contractor/firm under the contract.



## **REQUIRED FORMS**

**BIDDER SHALL UPLOAD COMPLETED  
FORMS TO THE EBID SYSTEM**

**[WWW.COCONUTCREEK.NET/PROCUREMENT](http://WWW.COCONUTCREEK.NET/PROCUREMENT)**

**SECTION IV  
REQUIRED FORMS**

**BID REQUIREMENTS CHECKLIST**

Bidder has completed the required documents listed in the checklist below. The required documents shall be executed, notarized (if applicable), and submitted as a condition to this Invitation for Bids. Bidder shall electronically submit all required documents and any other pertinent information electronically through the eBid System.

<b>Required Documents</b>	<b>Yes</b>	<b>No</b>
Section E: Bid Sheets and Bid Schedule	<input type="checkbox"/>	<input type="checkbox"/>
Section F: Bid Bond	<input type="checkbox"/>	<input type="checkbox"/>
Section G: Non-Collusive Affidavit	<input type="checkbox"/>	<input type="checkbox"/>
Section H: Sworn Statement on Public Entity Crimes	<input type="checkbox"/>	<input type="checkbox"/>
Section I: Drug-Free Workplace Form	<input type="checkbox"/>	<input type="checkbox"/>
Section J: Indemnification Clause	<input type="checkbox"/>	<input type="checkbox"/>
Section K: Bidder's Qualification Statement	<input type="checkbox"/>	<input type="checkbox"/>
Section L: Certified Resolution	<input type="checkbox"/>	<input type="checkbox"/>
Section M: Florida (Non-Florida) Corporations	<input type="checkbox"/>	<input type="checkbox"/>
Section N: References	<input type="checkbox"/>	<input type="checkbox"/>
Section O: Acknowledgement of Conformance with O.S.H.A. Standards	<input type="checkbox"/>	<input type="checkbox"/>
Section P: Bidder's Affidavit in Compliance with Florida Trench Safety Act	<input type="checkbox"/>	<input type="checkbox"/>
Section Q: Scrutinized Companies Certification	<input type="checkbox"/>	<input type="checkbox"/>
Section R: E-Verify Form	<input type="checkbox"/>	<input type="checkbox"/>
Financials	<input type="checkbox"/>	<input type="checkbox"/>
Certificate of Insurance	<input type="checkbox"/>	<input type="checkbox"/>
Business Tax Receipt	<input type="checkbox"/>	<input type="checkbox"/>
Copies of Valid Licenses	<input type="checkbox"/>	<input type="checkbox"/>

# SECTION E

## BID SHEETS

PROJECT NAME: Comprehensive Street Improvements Phase II  
PROJECT NO.: BID NO. 12-28-21-3

THIS BID SUBMITTED BY:

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Authorized Company Representative

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip

1. The undersigned Bidder proposes and agrees, if this bid is accepted, to enter into an agreement with City in the form included in the Contract Documents to perform and furnish all work as specified or indicated in the Contract Documents for the Contract Price and within the Contract Time indicated in this bid and in accordance with the other terms and conditions of the Contract Documents.
2. Bidder accepts all of the terms and conditions of the Invitation for Bids and Instructions to Bidders, including without limitation those dealing with the disposition of bid security. This bid will remain subject to acceptance for ninety (90) days after the day of bid opening. Bidder will sign and submit the Agreement with the Bonds and other documents required by the Bidding Requirements within ten (10) days after the date of City's Notice of Award.
3. In submitting this bid, Bidder represents, as more fully set forth in the Agreement, that:
  - (a) Bidder has examined copies of all the Contract Documents and of the following Addenda (receipt of all which is hereby acknowledged.)  

Addendum No: _____	Dated: _____
Addendum No: _____	Dated: _____
Addendum No: _____	Dated: _____
Addendum No: _____	Dated: _____
  - (b) Bidder has familiarized himself with the nature and extent of the contract documents, work, site, locality, and all local conditions and law and regulations that in any manner may affect cost, progress, performance or furnishing of the work.
  - (c) Bidder has obtained and carefully studied (or assumes responsibility for obtaining and carefully studying) all such examinations, investigations, explorations, tests and studies which pertain to the subsurface or physical conditions at the site or otherwise may affect the cost, progress performance or furnishing of the work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents, and no additional examinations, investigations, explorations, tests, reports or similar information or data are or will be required by Bidder for such purposes.

- (d) Bidder has reviewed and checked all information and data shown or indicated on the Contract Documents with respect to existing Underground Facilities at or contiguous to the site and assumes responsibility for the accurate location of said Underground Facilities. No additional examinations, investigations, explorations, tests, reports or similar information or data in respect of said Underground Facilities are or will be required by Bidder in order to perform and furnish the work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents.
- (e) Bidder has correlated the results of all such observations, examinations, investigations, explorations, tests, reports and studies with the terms and conditions of the Contract Documents.
- (f) Bidder has given Procurement Manager written notice of all conflicts, errors, discrepancies that it has discovered in the Contract Documents and the written resolution by the Procurement Manager is acceptable to Bidder.
- (g) This bid is genuine and not made in the interest of or on behalf of any undisclosed person, firm or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization, or corporation; Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham bid; Bidder has not solicited or induced any person, firm or corporation to refrain from bidding; and Bidder has not sought by collusion to obtain for itself any advantage over any other Bidder or over the City.

4. Bidder will complete the work for the following price:

Total Amount (Items 1 through 19) \$ \_\_\_\_\_

---

Total Amount (Items 1 through 19) (Written)

5. Bidder agrees that the work will be completed within 280 calendar days after the date stipulated in the Notice to Proceed.

6. Communications concerning this bid shall be addressed to:

Company Name: \_\_\_\_\_

Bidder's Name: \_\_\_\_\_

Bidder's Title: \_\_\_\_\_

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

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

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

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

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

7. The terms used in this bid are the same as defined in the General Conditions, Specifications and other parts of the Contract Documents

SUBMITTED on \_\_\_\_\_, 20\_\_

If BIDDER is:

**An Individual**

By \_\_\_\_\_  
(SEAL) (Individual's Name)

doing business as \_\_\_\_\_

Business address: \_\_\_\_\_

\_\_\_\_\_

Phone No: \_\_\_\_\_

**A Partnership**

By \_\_\_\_\_  
(SEAL) (Firm's Name)

\_\_\_\_\_  
(General Partner)

Business address: \_\_\_\_\_

\_\_\_\_\_

Phone No: \_\_\_\_\_

**A Corporation**

By \_\_\_\_\_  
(Corporation name)

\_\_\_\_\_  
(State of Incorporation)

By \_\_\_\_\_  
(Name of Person Authorized to Sign)

\_\_\_\_\_  
(Title)

(Corporate Seal)

Attest \_\_\_\_\_  
(President)

Business address: \_\_\_\_\_

\_\_\_\_\_

Phone No: \_\_\_\_\_

**A Joint Venture**

By \_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address)

By \_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Address)

(Each joint venture must sign. The manner of signing for each individual, partnership and corporation that is a party to the joint venture should be in the manner indicated above.)



**CITY OF COCONUT CREEK  
 COMPREHENSIVE STREET IMPROVEMENTS PHASE II  
 BID NO. 12-28-21-3**

**BID SCHEDULE**

**NOTES:**

1. All bid prices shall be inclusive of all labor, equipment, material, all incidentals and testing costs including sales tax and all other applicable taxes and fees. Contractor to be responsible for all permit fees except City's.
2. The Bidder agrees to perform all the work described in the Contract Documents for a lump sum amount, or for the quantities listed for the applicable line item on the Bid Schedule.
3. It is the intention of the City to award a contract to the lowest responsible and responsive Bidder based on the total amount of the bid.
4. Any discrepancy between the written and electronic prices, the electronic prices shall prevail.
5. Where the quantities in the Bid Schedule line items vary from the quantities shown on the plans, the quantities in the Bid Schedule shall apply. The City reserves the right to increase/decrease the quantities as needed to serve the intent of the project without any claim for losses by the Contractor.

**BIDDER SHALL SUBMIT PRICES ELECTRONICALLY THROUGH THE EBID  
 SYSTEM "LINE ITEMS" TAB**

**[WWW.COCONUTCREEK.NET/PROCUREMENT](http://WWW.COCONUTCREEK.NET/PROCUREMENT)**

Item#	Description	Unit	Quantity	Unit Cost	Cost
1.	Mobilization (5% Construction Cost)	LS	1	\$	\$
2.	Maintenance of Traffic (5% Construction Cost)	LS	1	\$	\$
3.	Clearing and Grubbing	LS	1	\$	\$
4.	Inlet Protection System	EA	160	\$	\$
5.	1" Asphalt Surface	SY	130,000	\$	\$
6.	2" Asphalt Surface	SY	21,000	\$	\$
7.	Milling 1" Asphalt Surface	SY	150,000	\$	\$
8.	4" Lime rock Base	SY	6,000	\$	\$
9.	4" Concrete Pavement	SY	12,000	\$	\$
10.	Root Barrier	LF	2,500	\$	\$
11.	Earthwork	CY	400	\$	\$
12.	Type 'D' Curb	LF	650	\$	\$
13.	Type 'F' Curb	LF	2,100	\$	\$
14.	ADA Single Ramp	EA	10	\$	\$
15.	ADA Detectable Warning	SF	500	\$	\$
16.	Sign Post & Sign	EA	10	\$	\$
17.	Pavement Marking	LS	1	\$	\$
18.	Structure Grate Adjustment	EA	20	\$	\$
19.	Concrete Flume	EA	5	\$	\$
<b>Total Amount</b>					\$



## **PAYMENT METHODS**

### **VISA PURCHASING CARD** (reference informational flyer on following page):

The City of Coconut Creek has implemented a Visa Procurement Card (P-Card) Program through SunTrust Bank. The City's preference is to pay for goods/services with the P-Card. This program allows the City to expedite payment to our vendors. Some of the benefits of the P-Card Program to the vendor are: payment received within 72 hours of receipt and acceptance of goods, reduced paperwork, issue receipts instead of generating invoices, resulting in fewer invoice problems, and deal directly with the cardholder (in most cases).

Vendors accepting payment by the P-Card may not require the City (Cardholder) to pay a separate or additional convenience fee, surcharge or any part of any contemporaneous finance charge in connection with a transaction. Such charges are allowable, however must be included in the total cost of the bid. Vendors are not to add notations such as "+3% service fee" in their bid response. All bid responses shall be inclusive of any and all fees associated with the acceptance of the P-Card.

Vendors agreeing to accept payment by P-Card must presently have the capability to accept Visa or take whatever steps necessary to implement the ability before the start of the agreement term.

### **EFT**

The City of Coconut Creek's Electronic Funds Transfer (EFT) Program allows the City to process payments to vendors electronically, directly to their financial institution of choice. With EFT payments, funds are deposited to vendor's bank account and are available the date the bank receives them. There will be no more waiting to receive payments in the mail, and no trips to the bank to make deposits. EFT payments also reduced the risk of misrouting, theft, and forgery. Additionally, an automated e-mail of the remittance advice will be sent to the e-mail specified by the vendor.

### **PAPER CHECK**

Paper checks can also be processed by the City for vendor payments.

**Completion Time:** 280 Calendar Days

Work shall be commenced in accordance with the Agreement date and shall be completed within 280 calendar days as stipulated in the Notice to Proceed.

Bidder: \_\_\_\_\_

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

City/State/Zip \_\_\_\_\_

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

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

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

Attest: \_\_\_\_\_

(CORPORATE SEAL)

REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK



# SECTION F

## BID BOND

KNOW ALL MEN BY THESE PRESENTS, that we, \_\_\_\_\_

as Principal and Contractor, and \_\_\_\_\_

hereinafter called Surety, are held and firmly bound unto City of Coconut Creek, a political subdivision of the State of Florida, and represented by its City Manager, in the sum of five percent (5%) of the total amount bid of:

\_\_\_\_\_  
(Written Dollar Amount)

dollars (\$\_\_\_\_\_) lawful money of the United States of America, for the payment of which well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally by these presents.

WHEREAS, the Principal contemplates submitting or has submitted, a bid to the City of Coconut Creek for the furnishing of all labor, materials (except those to be specifically furnished by the City), equipment, machinery, tools, apparatus, means of transportation for, and the performance of the work covered in the bid and the detailed Drawings and Specifications, entitled:

Comprehensive Street Improvements Phase II – Surtax Project  
BID NO. 12-28-21-3

WHEREAS, it was a condition precedent to the submission of said bid that a cashier's check, certified check, or bid bond in the amount of five percent (5%) of the Base Bid be submitted with said bid as a guarantee that the Bidder would, if awarded the Contract, enter into a written Contract with the City for the performance of said Contract, within ten (10) consecutive calendar days after written notice having been given of the award of the Contract.

NOW, THEREFORE, the conditions of this obligation are such that if the Principal within ten (10) consecutive calendar days after written notice of such acceptance, enters into a written Contract with the City of Coconut Creek and furnishes the Performance and Payment Bonds, each in an amount equal to one hundred percent (100%) of the awarded bid, satisfactory to the City, then this obligation shall be void; otherwise the sum herein stated shall be due and payable to the City of Coconut Creek and the Surety herein agrees to pay said sum immediately upon demand of the City in good and lawful money of the United States of America, as liquidated damages for failure thereof of said Principal.

IN WITNESS WHEREOF, the said \_\_\_\_\_  
as Principal herein, has caused these presents to be signed in its name by its \_\_\_\_\_  
\_\_\_\_\_ and attested by its \_\_\_\_\_  
\_\_\_\_\_ under its corporate seal, and the said \_\_\_\_\_  
\_\_\_\_\_ as Surety herein, has caused these presents  
to be signed in its name by its \_\_\_\_\_  
\_\_\_\_\_ and attested in its name by its \_\_\_\_\_  
\_\_\_\_\_ under its corporate seal, this \_\_\_\_\_ day of \_\_\_\_\_ A.D.,  
20\_\_.

Signed, sealed and delivered  
in the presence of:

\_\_\_\_\_

As to Principal

\_\_\_\_\_

As to Surety

PRINCIPAL: \_\_\_\_\_

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

\_\_\_\_\_  
Surety

BY: \_\_\_\_\_  
Attorney-in-Fact  
(Power-of-Attorney to be attached)

BY: \_\_\_\_\_  
Resident Agent

# SECTION G

## NON-COLLUSIVE AFFIDAVIT

State of \_\_\_\_\_ )  
County of \_\_\_\_\_ )ss

\_\_\_\_\_ being first duly sworn, deposes and says that:

- (1) He/she is the \_\_\_\_\_  
(Owner, Partner, Officer, Representative or Agent)  
of \_\_\_\_\_ the Bidder that has submitted the attached bid;
- (2) He/she is fully informed respecting the preparation and contents of the attached bid and of all pertinent circumstances respecting such bid;
- (3) Such bid is genuine and is not a collusive or sham bid;
- (4) Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, have in any way colluded, conspired, connived or agreed, directly or indirectly, with any other Bidder, firm, or person to submit a collusive or sham proposal in connection with the work for which the attached proposal has been submitted; or to refrain from bidding in connection with such work; or have in any manner, directly or indirectly, sought by agreement or collusion, or communication, or conference with any Bidder, firm or person to fix the price or prices in the attached bid of any other Bidder, or to fix an overhead, profit, or cost elements of the bid price or the bid price of any other Bidder, or to secure through any collusion, conspiracy, connivance, or unlawful agreement any advantage against (Recipient), or any person interested in the proposed work;
- (5) The price or prices quoted in the attached bid are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the Bidder or any other of its agents, representatives, owners, employees or parties in interest, including this affiant.

Signed, sealed and delivered  
in the presence of:

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

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

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Title)

### ACKNOWLEDGEMENT

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

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

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_, by \_\_\_\_\_, who is personally known to me or who has produced  
\_\_\_\_\_ as identification and who did (did not) take an oath.

WITNESS my hand and official seal

\_\_\_\_\_  
NOTARY PUBLIC

\_\_\_\_\_  
(Name of Notary Public: Print, Stamp, or  
Type as Commissioned.)

## SECTION H

### SWORN STATEMENT ON PUBLIC ENTITY CRIMES UNDER FLORIDA STATUTES CHAPTER 287.133(3)(a).

THIS FORM MUST BE SIGNED IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICER AUTHORIZED TO ADMINISTER OATHS.

1. This sworn statement is submitted with BID NO. 12-28-21-3 for Comprehensive Street Improvements Phase II – Surtax Project.
2. This sworn statement is submitted by \_\_\_\_\_ (name of entity submitting sworn statement) whose business address is \_\_\_\_\_ and (if applicable) its Federal Employer Identification Number (FEIN) is \_\_\_\_\_. (If the entity has no FEIN, include the Social Security Number of the individual signing this sworn statement: \_\_\_\_\_.)
3. My name is \_\_\_\_\_ and my  
(Please print name of individual signing)  
relationship to the entity named above is \_\_\_\_\_.
4. I understand that a "public entity crime" as defined in Paragraph 287.133(1)(g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or with the United States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.
5. I understand that a "convicted" or "conviction" as defined in Paragraph 287.133(1)(b), Florida Statutes, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.
6. I understand that an "affiliate" as defined in Paragraph 287.133(1)(a), Florida Statutes, includes but is not limited to:
  1. A predecessor or successor of a person convicted of a public entity crime: or
  2. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The Ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding thirty-six (36) months shall be considered an affiliate.



7. I understand that a "person" as defined in Section 287.133(1)(e), Florida Statutes as amended from time to time, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, who are active, or who have been active, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity within the last five (5) years of this sworn statement.
8. Based on information and belief, the statement which I have marked below is true in relation to the entity submitting this sworn statement. **Please check all statements that are applicable.**
- Neither the entity submitting this sworn statement, nor any officers, directors, executives, partners, shareholders, employees, members, or agents who are active in management of the entity, nor any affiliate of the entity have been charged with and convicted of a public entity crime subsequent to July 1, 1989.
  - The entity submitting this sworn statement, or one or more of the officers, directors, executives, partners, shareholders, employees, members, or agents who are active in management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989, AND (Please indicate which additional statement applies.)
  - There has been a proceeding concerning the conviction before a hearing officer of the State of Florida, Division of Administrative Hearings. The final order entered by the hearing officer did not place the person or affiliate on the convicted vendor list. (Please attach a copy of the final order.)
  - The person or affiliate was placed on the convicted vendor list. There has been a subsequent proceeding before a hearing officer of the State of Florida, Division of Administrative Hearings. The final order entered by the hearing officer determined that it was in the public interest to remove the person or affiliate from the convicted vendor list. (Please attach a copy of the final order.)
9. Based on information and belief, the statement that I have marked below is true in relation to the entity submitting this sworn statement. **Please check if statement is applicable.**
- The person or affiliate has not been placed on the convicted vendor list.  
**(If the box is not checked, please describe any action taken by or pending with the Department of General Services.)**
10. The herein sworn statement shall be subject to and incorporate all the terms and conditions contained in Section 287.133, Florida Statutes as amended from time to time.
11. Conviction of a public entity crime shall be cause for disqualification.

\_\_\_\_\_  
Bidder's Name

\_\_\_\_\_  
Signature

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

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

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

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_, by \_\_\_\_\_, who is (who are) personally known to me or who has  
produced \_\_\_\_\_ as identification and who did (did not) take an oath.

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

\_\_\_\_\_  
Notary Name, Printed, Typed or Stamped

Commission Number: \_\_\_\_\_

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

# SECTION I

## DRUG-FREE WORKPLACE FORM

The undersigned vendor in accordance with Florida Statute 287.087 hereby certifies that (Name of Business)

\_\_\_\_\_ does:

- 1) Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
- 2) Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
- 3) Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection (1).
- 4) In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.
- 5) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.
- 6) Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements.

\_\_\_\_\_  
Bidder's Signature

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Date



# SECTION K

## BIDDER'S QUALIFICATIONS

**NOTE:** This statement of Bidder's Qualifications must be completely filled out, properly executed and returned as part of your bid.

1. List the true, exact and proper names of the company, partnership, corporation, trade or fictitious name under which you do business and principals by name and titles:

Name of Company: \_\_\_\_\_

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

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

Phone No.: \_\_\_\_\_ Fax No.: \_\_\_\_\_

Federal Tax I.D.: \_\_\_\_\_

Principals: \_\_\_\_\_ Titles: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

2. a. Are you licensed, as may be required, in the designated area(s) of Broward County, Florida?

Yes \_\_\_\_\_ No \_\_\_\_\_

- b. List Principals Licensed:

Name(s): \_\_\_\_\_ Title: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Remarks: \_\_\_\_\_

\_\_\_\_\_

3. How long has your company been in business and so licensed? \_\_\_\_\_

4. If Bidder is an **individual** or a **partnership**, answer the following: \_\_\_\_\_

- a. Date of organization: \_\_\_\_\_

**BIDDER'S QUALIFICATIONS**

b. Name, address and Ownership percentage of all partners:

---

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---

c. State whether general or limited partnership: \_\_\_\_\_

If Bidder is other than an individual, corporation or partnership, describe the organization and give the name and address of principals.

---

---

---

5. If Bidder is operating under a fictitious name, submit evidence of compliance with the Florida Fictitious Name Statute.

6. How many years has your organization been in business under its present business name?

---

---

a. Under what other former names has your organization operated?

---

---

7. a. Has your company ever failed to complete a bonded obligation or to complete a Contract?

Yes \_\_\_\_\_ No \_\_\_\_\_

b. If so, give particulars including circumstances, where and when, name of bonding company, name and address of City and disposition of matter:

---

---

---

**BIDDER'S QUALIFICATIONS**

8. Litigation/Judgments/Settlements/Debarments/Suspensions:  
Submit information on any pending litigation and any judgments and settlements of court cases relative to providing the services requested herein that have occurred within the last five (5) years. Also indicate if your firm has been debarred or suspended from doing business with any government agency and/or professional board.

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9. a. List the pertinent experience of the key individuals of your organization (continue on insert sheet, if necessary).

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b. State the name of the individual(s) and titles who will personally supervise the work:

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---

10. List name and title of persons in your company who are authorized to enter into a Contract with the City of Coconut Creek, Florida for the proposed work should your company be the Successful Bidder.

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

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

11. Have you ever failed to complete any work awarded to you? If so, state when, where and why?

---

---

12. Will you subcontract any part of this work? If so, give details including a list of each subcontractor(s) that will perform work in excess of ten percent (10%) of the contract amount, the approximate percentage, and the work that will be performed by each such subcontractor(s). Include the name of the subcontractor(s) and the approximate percentage of work.

---

---

13. Under what conditions does the Bidder request Change Orders.

---

---

14. Bank References:

<b>Bank</b>	<b>Address/City/State/Zip</b>	<b>Telephone</b>

15. Attach a financial statement including Bidder's latest balance sheet and income statement showing the following items:

- a) Current Assets (e.g. cash, joint venture accounts, accounts receivable, notes, receivable, accrued income, deposits, materials, real estate, stocks and bonds, equipment, furniture and fixtures, inventory and prepaid expenses)
- b) Net Fixed Assets
- c) Other Assets
- d) Current Liabilities (e.g. accounts payable, notes payable, accrued expenses, provision for income taxes, advances, accrued salaries, real estate encumbrances and accrued payroll taxes)
- e) Other Liabilities (e.g. capital, capital stock, authorized and outstanding shares par values, earned surplus, and retained earnings)

16. State the name of the firm preparing the financial statement and date thereof:

---

17. Is this financial statement for the identical organization named on page one? Yes  No

18. If not, explain the relationship and financial responsibility of the organization whose financial statement is provided (e.g. parent-subsidiary).

---

---

19. Have you personally inspected the site of the proposed work?

Yes  No

20. Do you have a complete set of documents, including drawings and addenda, if applicable?

Yes  No



21. Did you attend the pre-bid conference if any such conference was held?

Yes  No  No Conference Held

The undersigned guarantees the authenticity of the foregoing statements and does hereby authorize and request any person, firm or corporation to furnish any information requested by the City of Coconut Creek, Florida to verification of the recitals comprising this statement of the Bidder's qualifications. **DISCOVERY OF ANY OMISSION OR MISSTATEMENT THAT MATERIALLY AFFECTS THE BIDDER'S QUALIFICATIONS TO PERFORM UNDER THE CONTRACT SHALL CAUSE THE CITY TO REJECT THE BID, AND IF AFTER THE AWARD TO CANCEL AND TERMINATE THE AWARD AND/OR CONTRACT.**

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Company

\_\_\_\_\_  
Title

If Corporation (Seal) If Individual or Partnership, two Witnesses are required:

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

Respectfully submitted

(CORPORATE SEAL)

\_\_\_\_\_  
Company – Contractor

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**BIDDER'S QUALIFICATIONS**

ATTEST:

\_\_\_\_\_  
Secretary

By \_\_\_\_\_ (Seal)  
President

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Contractor Signature

Construction Industry Licensing Board

Registration No.: \_\_\_\_\_

Certification No.: \_\_\_\_\_

Qualifying Individual: \_\_\_\_\_

# SECTION L

## CERTIFIED RESOLUTION

I, \_\_\_\_\_(Name), the duly elected Secretary of \_\_\_\_\_  
(Corporate Title), a corporation organized and existing under the laws of the State of \_\_\_\_\_,  
do hereby certify that the following Resolution was unanimously adopted and passed by a quorum of the Board of  
Directors of the Said corporation at a meeting held in accordance with law and the by-laws of the said corporation.

“IT IS HEREBY RESOLVED THAT \_\_\_\_\_(Name)” The duly elected  
\_\_\_\_\_ (Title of Officer) of \_\_\_\_\_(Corporate title) be and is hereby  
authorized to execute and submit a Bid and Bid Bond, if such bond is required, to the City of Coconut Creek and such  
other instruments in writing as may be necessary on behalf of the said corporation; and that the Bid, Bid Bond, and  
other such instruments signed by him/her shall be binding upon the said corporation as its own acts and deeds. The  
secretary shall certify the names and signatures of those authorized to act by the foregoing resolution.

The City of Coconut Creek shall be fully protected in relying upon such certification of the secretary and shall be  
indemnified and saved harmless from any and all claims, demands, expenses, loss or damage resulting from or  
growing out of honoring, the signature of any person so certified or for refusing to honor any signature not so certified.

I further certify that the above resolution is in force and effect and has not been revised, revoked or rescinded.

I further certify that the following are the names, titles and official signatures of those persons authorized to act by  
the foregoing resolution.

Name	Title	Signature
_____	_____	_____
_____	_____	_____
_____	_____	_____

Given under my hand and the Seal of the said corporation this \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_.

(SEAL)

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

Secretary

\_\_\_\_\_  
Corporate

NOTE: The above is a suggested form of the type of Corporate Resolution desired. Such form need not be followed explicitly, but the Certified  
Resolution submitted must clearly show to the satisfaction of the City of Coconut Creek that the person signing the Bid and Bid Bond  
for the corporation has been properly empowered by the corporation to do so in its behalf.

## SECTION M

### FOREIGN (NON-FLORIDA) CORPORATIONS MUST COMPLETE THIS FORM

DEPARTMENT OF STATE CORPORATE CHARTER NO. \_\_\_\_\_

If your corporation is exempt from the requirements of Section 607.1501, Florida Statutes as amended from time to time, *YOU MUST CHECK BELOW* the reason(s) for the exemption. Please contact the Department of State, Division of Corporations at (850) 245-6051 for assistance with corporate registration or exemptions.

607.1501 Authority of foreign corporation to transact business required.

- (1) A foreign corporation may not transact business in this state until it obtains a certificate of authority from the Department of State.
- (2) The following activities, among others, do not constitute transacting business within meaning of subsection (1):
  - \_\_\_\_(a) Maintaining, defending, or settling any proceeding.
  - \_\_\_\_(b) Holding meetings of the board of directors or shareholders or carrying on other activities concerning internal corporate affairs.
  - \_\_\_\_(c) Maintaining bank accounts.
  - \_\_\_\_(d) Maintaining officers or agencies for the transfer, exchange, and registration of the corporation's own securities or maintaining trustees or depositories with respect to those securities.
  - \_\_\_\_(e) Selling through independent contractors.
  - \_\_\_\_(f) Soliciting or obtaining orders, whether by mail or through employees, agents, or otherwise, if the orders require acceptance outside this state before they become contracts.
  - \_\_\_\_(g) Creating or acquiring indebtedness, mortgages, and security interests in real or personal property.
  - \_\_\_\_(h) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts.
  - \_\_\_\_(i) Transacting business in interstate commerce.
  - \_\_\_\_(j) Conducting an isolated transaction that is completed within 30 days and that is not one in the course of repeated transactions of a like nature.
  - \_\_\_\_(k) Owning and controlling a subsidiary corporation incorporated in or transacting business within this state or voting the stock of any corporation which it has lawfully acquired.
  - \_\_\_\_(l) Owning a limited partnership interest in a limited partnership that is doing business within this state, unless such limited partner manages or controls the partnership or exercises the powers and duties of a general partner.
  - \_\_\_\_(m) Owning, without more, real or personal property.
- (3) The list of activities in subsection (2) is not exhaustive.
- (4) This section has no application to the question of whether any foreign corporation is subject to service of process and suit in this state under any law of this state.

Please check one of the following if your firm is NOT a corporation:

- (I)\_\_\_\_ Partnership, Joint Venture, Estate or Trust  
(II)\_\_\_\_ Sole Proprietorship or Self- Employed

**NOTE:** This sheet *MUST* be enclosed with your bid if you claim an exemption or have checked I or II above. If you do not check I or II above, your firm will be considered a corporation and subject to all requirements listed herein.

\_\_\_\_\_  
BIDDER'S CORRECT LEGAL NAME

\_\_\_\_\_  
SIGNATURE OF AUTHORIZED AGENT OF BIDDER

# SECTION N

## REFERENCES

The following is a list of at least four (4) references that Contractor has provided similar service in the past five (5) years. Government agency references are preferred.

1. Name of Firm, City, County or Agency: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_  
Contact: \_\_\_\_\_ Title: \_\_\_\_\_  
Email Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_  
Scope of Work: \_\_\_\_\_  
\_\_\_\_\_

2. Name of Firm, City, County or Agency: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_  
Contact: \_\_\_\_\_ Title: \_\_\_\_\_  
Email Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_  
Scope of Work: \_\_\_\_\_  
\_\_\_\_\_

3. Name of Firm, City, County or Agency: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_  
Contact: \_\_\_\_\_ Title: \_\_\_\_\_  
Email Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_  
Scope of Work: \_\_\_\_\_  
\_\_\_\_\_

4. Name of Firm, City, County or Agency: \_\_\_\_\_  
Address: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_  
Contact: \_\_\_\_\_ Title: \_\_\_\_\_  
Email Address: \_\_\_\_\_  
Telephone: \_\_\_\_\_ Fax: \_\_\_\_\_  
Scope of Work: \_\_\_\_\_  
\_\_\_\_\_

**NOTE: Additional references may be attached and provided.**

**SECTION O**

**ACKNOWLEDGEMENT OF CONFORMANCE  
WITH O.S.H.A. STANDARDS**

TO: CITY OF COCONUT CREEK

We, \_\_\_\_\_, hereby acknowledge and  
(Prime Contractor)

agree that as Contractors for Comprehensive Street Improvements Phase II, BID NO. 12-28-21-3, as specified have the sole responsibility for compliance with all the requirements of the Federal Occupational Safety and Health Act of 1970, and all state and local safety and health regulations, and agree to indemnify and hold harmless the City of Coconut Creek against any and all liability, claims, damages, losses and expenses they may incur due to the failure of

\_\_\_\_\_  
(Subcontractors Names)

to comply with such act or regulation.

\_\_\_\_\_  
CONTRACTOR

BY \_\_\_\_\_

\_\_\_\_\_  
ATTEST

\_\_\_\_\_  
ATTEST

\_\_\_\_\_  
DATE

**SECTION P**

**BIDDER'S AFFIDAVIT IN COMPLIANCE WITH  
FLORIDA TRENCH SAFETY ACT (SECTION 553.60-553.64, FLORIDA STATUTES)**

STATE OF FLORIDA            )  
  ) SS  
CITY OF COCONUT CREEK    )

BEFORE ME, the undersigned authority, personally appeared \_\_\_\_\_,  
who being duly sworn deposes and says as follows:

That he/she is duly authorized representative of \_\_\_\_\_ and  
such (City) (Partner) (President or other Corporate Officer)

has full authority to execute this Bidder's Affidavit.

- 1. The full legal name and business address of the person or entity submitting this bid:

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

- 2. By submission of this bid and subsequent execution of this Contract, the undersigned Bidder certifies that as Successful Bidder (Contractor) all trench excavation done within his control (by his own forces or by his Subcontractors) shall be accomplished in strict adherence with OSHA trench safety standards contained in 29 C.F.R., s. 1926.650, Subpart P, including all subsequent revisions or updates to these standards as adopted by the Department of Labor and Employment Security.
- 3. The undersigned Bidder certifies that as Successful Bidder (Contractor) he has obtained or will obtain identical certification from his proposed Subcontractors that will perform trench excavation prior to award of the subcontracts and that he will retain such certifications in his files for a period of not less than three years following final acceptance.
- 4. The Bidder acknowledges that included in the various items listed in the Schedule of Prices Bid and in the Total Amount Bid are costs for complying with the Florida Trench Safety Act (Sections 553.60-553.64, Florida Statutes as amended from time to time). The Bidder further identifies the costs to be summarized on the following page\*:

	Trench Safety Measure	Units of Measure	Unit Quantity	Extended Unit Cost	Cost
A.	_____	_____	_____	_____	_____
B.	_____	_____	_____	_____	_____
C.	_____	_____	_____	_____	_____
D.	_____	_____	_____	_____	_____

TOTAL:  
\_\_\_\_\_

Method of Compliance (Specify) \_\_\_\_\_

Date: \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Name of Affiant

SWORN to and subscribed before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
NOTARY PUBLIC, State of Florida at Large

(Notary Seal)

My Commission expires:  
\_\_\_\_\_

\*Bidders: Add extra sheet(s), if needed.

If Bidder fails to complete and execute this sworn statement/affidavit, his bid may be declared non-responsive and rejected by City of Coconut Creek.



**SECTION Q**

**SCRUTINIZED COMPANIES CERTIFICATION  
PURSUANT TO FLORIDA STATUTE § 215.4725 AND § 215.473**

I, \_\_\_\_\_, on behalf of \_\_\_\_\_,  
Print Name Company Name

certifies that \_\_\_\_\_ does not:  
Company Name

- 1. Participate in a boycott of Israel; and
- 2. Is not on the Scrutinized Companies that Boycott Israel list; and
- 3. Is not on the Scrutinized Companies with Activities in Sudan List; and
- 4. Is not on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; and
- 5. Has not engaged in business operations in Cuba or Syria.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Phone

\_\_\_\_\_  
Date

## SECTION R

### E-VERIFY FORM

Project Name:	Comprehensive Street Improvements Phase II – Surtax Project
Project No.:	BID NO. 12-28-21-3

ACKNOWLEDGEMENT

Definitions:

“Contractor” means a person or entity that has entered or is attempting to enter into a contract with a public employer to provide labor, supplies, or services to such employer in exchange for salary, wages, or other remuneration.

“Subcontractor” means a person or entity that provides labor, supplies, or services to or for a contractor or another subcontractor in exchange for salary, wages, or other remuneration.

Effective January 1, 2021, public and private employers, contractors and subcontractors will begin required registration with, and use of the E-verify system in order to verify the work authorization status of all newly hired employees. Vendor/Consultant/Contractor acknowledges and agrees to utilize the U.S. Department of Homeland Security’s E-Verify System to verify the employment eligibility of:

- (a) All persons employed by Vendor/Consultant/Contractor to perform employment duties within Florida during the term of the contract; and
- (b) All persons (including subvendors/subconsultants/subcontractors) assigned by Vendor/Consultant/Contractor to perform work pursuant to the contract with the Department. The Vendor/Consultant/Contractor acknowledges and agrees that use of the U.S. Department of Homeland Security’s E-Verify System during the term of the contract is a condition of the contract with the City of Coconut Creek; and

Should vendor become successful Contractor awarded for the above-named project, by entering into this Contract, the Contractor becomes obligated to comply with the provisions of Section 448.095, Fla. Stat., "Employment Eligibility," as amended from time to time. This includes but is not limited to utilization of the E-Verify System to verify the work authorization status of all newly hired employees, and requiring all subcontractors to provide an affidavit attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. The contractor shall maintain a copy of such affidavit for the duration of the contract. 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 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.

COMPANY CONTACT INFORMATION

Company Name:	
Authorized Signature:	
Print Name:	
Title	
Date:	
Phone:	
Email:	
Website:	

**SECTION S**

**LETTER OF INTENT (CBE/SBE)  
To Utilize a County Business Enterprise (CBE) or Small Business Enterprise (SBE)  
Subcontractor/Subconsultant**

Project Name: Comprehensive Street Improvements Phase II- Surtax Project  
Project Number: Bid No. 12-28-21-3

From (Name of Proposer/Bidder): \_\_\_\_\_

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

Project Description: \_\_\_\_\_

In response to the City of Coconut Creek\_'s RLI/Bid No. [ 12-28-21-3 ], the undersigned hereby agree to utilize the CBE or SBE firm listed below, if awarded the contract. The undersigned further certify that the firm has been contacted and properly apprised of the projected work assignment(s) upon execution of the contract with the City of Coconut Creek\_\_\_\_\_.

Name of CBE/SBE Firm: \_\_\_\_\_

Address of CBE/SBE Firm: \_\_\_\_\_

Expiration of CBE/SBE Certification: [ ] Projected CBE/SBE Work Assignment (description of work assignment): \_\_\_\_\_

Projected Percentage of Prime's Contract Fees to be Awarded to CBE/SBE (Percentage %): [ ]

\_\_\_\_\_

(Signature of Owner or Authorized Rep. **Prime**)

\_\_\_\_\_

(Date)

Print Name (owner or authorized Rep. **Prime**): \_\_\_\_\_

The foregoing instrument was acknowledged before me, by means of  physical presence or  online notarization, \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by \_\_\_\_\_ who is personally known to me or who has produced \_\_\_\_\_ as identification and who  did  did not take an oath.

Notary's Signature \_\_\_\_\_

Notary Seal: \_\_\_\_\_

**(ACKNOWLEDGEMENT BY THE PROPOSED CBE/SBE FIRM)**

The undersigned intends to perform work in connection with the above Contract as (check one)  an individual  a partnership  a corporation  a joint venture. The undersigned agrees with the prime contractor's/consultant's proposal and further certifies that all information provided herein is true and correct.

\_\_\_\_\_  
Owner or Authorized Rep. **CBE/SBE**

\_\_\_\_\_  
(Date)

(Signature of

Print Name (owner or authorized Rep. **CBE/SBE**): \_\_\_\_\_

The foregoing instrument was acknowledged before me, by means of  physical presence or  online notarization, \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by \_\_\_\_\_ who is personally known to me or who has produced \_\_\_\_\_ as identification and who  did  did not take an oath.

Notary's Signature: \_\_\_\_\_

Notary Seal: \_\_\_\_\_

## SECTION T

### STATEMENT OF CBE/SBE ASSURANCE

(Company Letterhead)

#### CONTRACTOR ASSURANCE STATEMENT

#### COMPREHENSIVE STREET IMPROVEMENTS PHASE II – SURTAX PROJECT

---

I, \_\_\_\_\_ (Authorized Official/Agent), on behalf of the \_\_\_\_\_ (Contractor), hereby agree to comply with the County Business Enterprise (CBE) or Small Business Enterprise (SBE) requirements of the RFP between the City of Coconut Creek and (your company) for \_\_\_\_\_ Comprehensive Street Improvements Phase II-Surtax Project, and to comply with the following requirements.

1. Compliance with the City's non-discrimination policy by providing a non-discrimination Statement;
2. Acknowledgment of the CBE/SBE percentage goal established on the project; and
3. Contract to engage in good faith effort solicitation of approved Broward County Small Business Development Program firms to achieve the project goals as indicated in the RFP document.

\_\_\_\_\_  
Authorized Agent of Contractor

\_\_\_\_\_  
Printed Name & Title

\_\_\_\_\_  
Telephone Number/Fax Number

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

# **EXHIBITS**

# EXHIBIT “A”

## CONTRACT BETWEEN THE MUNICIPALITY CITY OF COCONUT CREEK AND

\_\_\_\_\_ FOR COMPREHENSIVE STREET IMPROVEMENTS PHASE II- SURTAX  
PROJECT

BID/CONTRACT NO.: 12-28-21-3

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**CONTRACT BETWEEN THE MUNICIPALITY CITY OF COCONUT CREEK AND**

**FOR**

**COMPREHENSIVE STREET IMPROVEMENTS PHASE II- SURTAX PROJECT- SURTAX PROJECT**

BID/CONTRACT NO.: 12-28-21-3

<b>Project Title:</b>	<b>COMPREHENSIVE STREET IMPROVEMENTS PHASE II- SURTAX PROJECT</b>		
<b>Location:</b>			
<b>RLI Number:</b>			
<b>Contract Number:</b>	<b>12-28-21-3</b>		
<b>Project Number:</b>			

**SUMMARY OF TERMS AND CONDITIONS**

<b>General Contractor:</b>			
Contractor Address:			
Federal Identification No.:			

<b>Contract Administrator:</b>	Randall Blanchette		
Contract Administrator Address:	5295 Johnson Road Coconut Creek, FL 33073		

<b>Consultant:</b>			
Consultant Address:			

<b>Article</b>	<b>Description</b>	<b>Unit</b>
3.2	Substantial Completion	<u>220</u> Days after the Project Initiation Date in NTP
3.2	Final Completion	<u>280</u> Days after Substantial Completion
3.3	<b>[If applicable]</b> Liquidated Damages for each calendar day after time specified in Notice to Proceed	\$ <u>0</u> per day
3.3	Liquidated Damages for each calendar day after time specified for Substantial Completion	\$ <u>0</u> per day
3.3	Liquidated Damages for each calendar day after time specified for Final Completion	\$ <u>500</u> per day
3.3	<b>[If applicable]</b> Liquidated Damages for each	Interim Milestone #1

Article	Description	Unit
	calendar day after time specified for interim Milestones (or phase):  [Milestones 1, 2, 3, etc.: Division 1, Section ____]	\$ <u>  0  </u> per day Interim Milestone #2 \$ <u>  0  </u> per day Interim Milestone #3 \$ <u> 500 </u> per day
8.4	The Parties designate the following as the respective places for giving of notice:	For Municipality: Osama Elshami, Director, Utilities and Engineering City of Coconut Creek 5295 Johnson Road Coconut Creek, FL 33073 For Contractor:
42 (General Conditions)	Compensable Excusable Delay for each calendar day beyond the Contract Time.	\$ <u> 500 </u> per day
54 (General Conditions)	<input checked="" type="checkbox"/> County Business Enterprise (CBE) or Small Business Enterprise (SBE) commitment	As awarded _____%

## CONTRACT

This is a construction contract (“Contract”) made and entered by and between the CITY OF COCONUT CREEK, a municipality of the State of Florida (“Municipality”), and [INSERT NAME OF CONTRACTOR], a \_\_\_\_\_ [corporation/limited liability company] (“Contractor”) (each a “Party” and collectively referred to as the “Parties”).

### RECITALS

- A. In November 2018, Broward County voters approved a 30-year sales surtax (also known as “Penny for Transportation”) to fund statutorily-permissible transportation expenditures; and
- B. All projects, County State, and municipal, funded by the transportation surtax are evaluated for eligibility under Section 212.055(1), Florida Statutes, by the independent Transportation Surtax Oversight Board before the Broward County Board of County Commissioners makes the final decisions regarding project funding; and
- C. This Construction Contract for Comprehensive Street Improvements Phase II- Surtax Project is a restoration and maintenance project being funded by County Surtax dollars.

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

### ARTICLE 1 DEFINITIONS

Whenever the following terms appear in the Contract Documents, the intent and meaning shall be interpreted as follows:

- 1.1. **Applicable Law** means all applicable laws, codes, advisory circulars, rules, regulations, or ordinances of any federal, state, county, municipal, or other governmental entity, including as may be amended from time to time.
- 1.2. **Bidder** means an entity or individual submitting a bid for this Project, acting directly or through a duly authorized representative.
- 1.3. **Board** means the governing body of Municipality, its successors and assigns.
- 1.4. **Change Order** means a written document ordering a change in the Contract Price or Contract Time or a material change in the Work.
- 1.5. **Consultant** means the architect or engineer who has contracted with Municipality or who is an employee of Municipality, and provides professional services for this Project.
- 1.6. **Contract Administrator** means Randall Blanchette, Engineering Manager, or such other person designated by the City Manager in writing.
- 1.7. **Contract Documents** means the official documents setting forth bidding information, requirements, and contractual obligations for the Project and includes Articles 1 through 8 of this

Contract, the Contract Supplement, the General Conditions, the Supplemental General Conditions, the Scope of Work, Invitation to Bid, Addenda, Standard Instructions for Vendors, Special Instructions for Vendors, Plans, Drawings, Exhibits, General Requirements, Technical Specifications, Bid Forms, Record of Award by Board, Bonds, Notice of Award, Notice(s) to Proceed, Supplements, Representations and Certifications, Certificates, Project Forms, Closeout Forms, Purchase Order(s), Change Order(s), Field Order(s), Special Provisions, BIM and Electronic Media Submittal Requirements, and any additional documents the submission of which is required by this Project.

1.8. **Contract Price** means the amount established in the bid submittal and award by the Board, as may be amended by Change Order.

1.9. **Contract Time** means the time between commencement and completion of the Work, including any milestone dates thereof, established in Article 3 of this Contract, as may be amended by Change Order.

1.10. **Contractor** means the person, firm, or corporation with whom Municipality has contracted and who is responsible for the acceptable performance of the Work and for the payment of all legal debts or other obligations pertaining to the Work. All references in the Contract Documents to third parties under contract or control of Contractor shall be deemed to be a reference to Contractor.

1.11. **County** means Broward County, a political subdivision of the State of Florida and representatives authorized by the Board of County Commissioners or the Broward County Charter to act on behalf of County.

1.12. **County Business Enterprise** or **CBE** means a small business certified as meeting the applicable requirements of the Broward County Business Opportunity Act of 2012, Section 1-81, Broward County Code of Ordinances.

1.13. **Field Order** means a written order that orders minor changes in the Work but which does not involve a change in the Contract Price or Contract Time.

1.14. **Final Completion** means the date certified by Consultant in the Final Certificate of Payment upon which all conditions and requirements of any permits and regulatory agencies have been satisfied; any documents required by the Contract Documents have been received by Consultant; any other documents required to be provided by Contractor have been received by Consultant; and to the best of Consultant's knowledge, information and belief, the Work defined herein has been fully completed in accordance with the terms and conditions of the Contract Documents.

1.15. **Materials** means materials incorporated in this Project or used or consumed in the performance of the Work.

1.16. **Municipality Manager** means the official appointed by the Municipality who directs the administration of the Municipality.

1.17. **Notice(s) to Proceed** means a written notice to Contractor authorizing the commencement of the activities identified in the notice or as described in the Contract Documents.

1.18. **OESBD** means Broward County's Office of Economic and Small Business Development.

1.19. **Plans or Drawings** means the official graphic representations of this Project that are a part of the Contract Documents.

1.20. **Purchasing Director** means Municipality's Procurement Official or designee authorized to execute Work Authorizations.

1.21. **Project** means the construction project described in the Contract Documents, including the Work described therein.

1.22. **Project Initiation Date** means the date upon which the Contract Time commences.

1.23. **Small Business Enterprise or SBE** means an entity certified as meeting the applicable requirements of the Broward County Business Opportunity Act of 2012, Section 1-81, Broward County Code of Ordinances.

1.24. **Subcontractor** means a person, firm or corporation having a direct contract with Contractor, including one who furnishes material worked to a special design according to the Contract Documents, but does not include one who merely furnishes Materials not so worked.

1.25. **Substantial Completion** means that date, as certified in writing by Consultant and as finally determined by Contract Administrator in its sole discretion, on which the Work, or a portion thereof, is at a level of completion in substantial compliance with the Contract Documents such that all conditions of permits and regulatory agencies have been satisfied and Municipality or its designee can enjoy use or occupancy and can use or operate it in all respects for its intended purpose. A Certificate of Occupancy (or a Temporary Certificate of Occupancy (TCO) or other alternate municipal/county authorization for limited or conditional occupancy acceptable to the Contract Administrator) must be issued for Substantial Completion to be achieved; however, the issuance of a Certificate of Occupancy will not, by itself, constitute the achievement or date of Substantial Completion.

1.26. **Surety** means the surety company or individual that is bound by the performance bond and payment bond with and for Contractor who is primarily liable for satisfactory performance of the Work, and which surety company or individual is responsible for Contractor's satisfactory performance of the Work under this Contract and for the payment of all debts and other obligations pertaining thereto in accordance with Section 255.05, Florida Statutes.

1.27. **Work** means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all labor, materials, equipment, and services provided or to be provided by Contractor to fulfill Contractor's obligations. The Work may constitute the whole or a part of the Project.

## ARTICLE 2 SCOPE OF WORK

Contractor hereby agrees to furnish all of the labor, materials, equipment, services, and incidentals necessary to perform all of the Work described in the Contract Documents for the Project.

### ARTICLE 3 CONTRACT TIME

3.1 Contractor shall be instructed to commence the Work by written instruction in the form of a Purchase Order issued by Municipality's Purchasing Director and two or more Notices to Proceed issued by the Contract Administrator. The first Notice to Proceed and Purchase Order will not be issued until Contractor's submission to Municipality of all required documents and after execution of this Contract by both Parties. Preliminary Work, including submission of a project schedule, schedule of values, submittals, submittal schedule, and other documents required for permitting, and performance of Work that does not require permits, shall commence within ten (10) days after the date of the first Notice to Proceed. Contractor shall have ten (10) days after receipt of signed and sealed contract Drawings from Consultant to apply for construction permits to the applicable permitting authority. Issuance of all permits by the permitting authority shall be a condition precedent to the issuance of a second Notice to Proceed for all additional Work. Except for the reimbursement of permit application fees, impact fees, and performance and payment bond premiums as may be provided in the Contract Documents, Contractor shall not be entitled to compensation of any kind during the permitting process. The Work to be performed pursuant to the second Notice to Proceed shall commence within ten (10) days after the Project Initiation Date specified in the second Notice to Proceed.

3.2 Time is of the essence throughout this Contract. Contractor must obtain Substantial Completion of the Work within **two hundred and twenty (220)** days after the Project Initiation Date specified in the Second Notice to Proceed, and Final Completion within **sixty (60)** days after the date of Substantial Completion.

3.3. Upon failure of Contractor to obtain Substantial Completion within the deadline stated in Section 3.2, as extended by any approved time extensions, Contractor shall pay to Municipality the sum Five Hundred Dollars (\$500.00) for each day after the deadline for Substantial Completion, as extended by any approved time extensions, until Substantial Completion is obtained. After Substantial Completion, should Contractor fail to complete the remaining Work within the deadline stated in Section 3.2, as extended by approved time extensions thereof, Contractor shall pay to Municipality the sum of Five Hundred Dollars (\$500.00) for each day after the deadline for Final Completion, as extended by any approved extensions, until Final Completion is obtained. These amounts are not penalties but are liquidated damages to Municipality for its inability to obtain full beneficial occupancy and/or use of the Project. Liquidated damages are hereby fixed and agreed upon between the Parties based on (1) a mutual recognition of the impossibility of precisely ascertaining the amount of damages that will be sustained by Municipality as a consequence of Contractor's failure to timely obtain Substantial Completion; and (2) both Parties' desire to obviate any question of dispute concerning the amount of said damages and the cost and effect of the failure of Contractor to complete this Contract on time. These liquidated damages shall apply separately to each portion of the Project for which a deadline for completion is given.

3.3. Municipality may deduct liquidated damages from monies due to Contractor for the Work under this Contract or as much thereof as Municipality may, in its sole discretion, deem just and reasonable.

3.4 Contractor shall reimburse Municipality, in addition to liquidated damages, for all costs incurred by Consultant in administering the construction of the Project beyond the completion dates specified above, as extended by any approved time extensions. Consultant construction administration costs shall be in the amounts set forth in the contract between Municipality and Consultant, a copy of which is available upon request of the Contract Administrator. All such costs shall be deducted from the monies

due Contractor for performance of Work under this Contract by means of unilateral credit Change Orders issued by Municipality as costs are incurred by Consultant and agreed to by Municipality.

**ARTICLE 4 CONTRACT SUM**

4.1.  This is a Unit Price Contract:\*

4.1.1. Municipality shall pay to Contractor the amounts determined for the total number of each of the units of Work completed at the unit price stated in the Contract Price. The number of units contained in this schedule is an estimate only, and final payment shall be made for the actual number of units incorporated in or made necessary by the Work covered by the Contract Documents.

4.1.2. Payment shall be made at the unit prices applicable to each integral part of the Work. These prices shall be full compensation for all costs, including overhead and profit, associated with completion of all the Work in full conformity with the requirements as stated or shown, or both, in the Contract Documents. The cost of any item of Work not covered by a specific Contract unit price shall be included in the Contract unit price or lump sum price to which the item is most applicable.

4.2.  This is a Lump Sum Contract:\*

4.2.1. Municipality shall pay Contractor the Contract Price for the performance of the Work described in the Contract Documents.

4.2.2. Payment shall be at the lump sum price stated in this Contract. This price shall be full compensation for all costs, including overhead and profit, associated with completion of all the Work in full conformity with the requirements as stated or shown, or both, in the Contract Documents. The cost of any item of Work not covered by a specific Contract lump sum should be included in the lump sum price to which the item is most applicable.

\*Note: Only the subsections corresponding to any checked box in this Article 4 will apply to this Contract. Some Projects include both unit prices and lump sums, in which case both subsections shall apply as appropriate depending upon the type of Work being performed by Contractor and approved by Municipality.

**ARTICLE 5 PROGRESS PAYMENTS**

5.1. Contractor may make an application for payment (“Application for Payment”), at intervals of not more than once a month, for Work completed during the Project. Contractor shall, where the Project involves CBE or SBE Subcontractors, make Application for Payment, at monthly intervals, for Work completed by such Subcontractors during the Project. Contractor’s applications shall show a complete breakdown of the Project components, the quantities completed, and the amount of payment sought, together with such supporting evidence as may be required by Consultant or Contract Administrator. Contractor shall submit with each Application for Payment: an updated progress schedule acceptable to Consultant as required by the Contract Documents; a Certification of Payments to Subcontractors Form (Form 9); a statement indicating the cumulative amount of CBE or SBE participation to date; and a release of claims relative to the Work that was the subject of previous applications or consent of surety relative

to the Work that is the subject of the Application for Payment. If Contractor has not made payment to a Subcontractor, the Certification of Payments to Subcontractors Form shall be accompanied by a copy of the notification sent to each Subcontractor (listed in Item 2 of the Form) to whom payment has not been made, explaining the good cause why payment was not made. When applicable, an Application for Payment shall be accompanied by a completed Statement of Wage Compliance Form (Form 8A or 8B). Each Application for Payment shall be submitted in triplicate to Consultant for approval as follows:

**[INSERT NAME AND ADDRESS OF INDIVIDUAL TO RECEIVE THE PAY APPLICATION]**

Randall Blanchette, Engineering Manager,  
5295 Johnson Road  
Coconut Creek, Florida 33073

All Applications for Payment shall be stamped as received on the date on which they are delivered in the manner specified above. Payments of Applications for Payment shall be subject to approval as specified hereinbefore, and if approved shall be due twenty-five (25) business days after the date on which the Application for Payment is stamped received. At the end of the twenty-five (25) business days, Contractor may send the Contract Administrator an overdue notice. If the Application for Payment is not rejected within four (4) business days after delivery of the overdue notice, the Application for Payment shall be deemed accepted, except for any portion of the Application for Payment that Municipality determines to be fraudulent or misleading. If the Application for Payment does not meet the requirements of this Contract, Municipality shall reject the Application for Payment within twenty (20) business days after the date stamped received and said rejection shall specify the deficiency and the action necessary to cure that deficiency. If Contractor submits a request that corrects the deficiency, the corrected Application for Payment must be paid or rejected within ten (10) business days after the corrected Application for Payment is stamped as received. Any dispute between Municipality and Contractor shall be resolved pursuant to the dispute resolution procedure set forth in Article 12 of the General Conditions.

5.2. Municipality may withhold retainage on each progress payment as set forth in Section 255.078, Florida Statutes, as may be amended during this Contract. Any reduction in retainage below the maximum amount set forth in Section 255.078, Florida Statutes, shall be at the sole discretion of the Contract Administrator, as may be recommended by Consultant. Any interest earned on retainage shall accrue to the benefit of Municipality.

As payment for Materials and equipment stored at the Project site, Contractor shall receive payment equal to ninety percent (90%) of the invoiced amount of the Materials and equipment in the manner set forth in this paragraph. The invoiced amount shall be based on the value of all acceptable Materials and equipment not yet incorporated in the Work but delivered and suitably stored at the Project site and scheduled for installation on-site within thirty (30) days after the date of the Application for Payment. Copies of the supplier's invoices for the Materials and equipment shall be included with the Application for Payment.

5.3. Notwithstanding any provision of this Contract to the contrary, Municipality may withhold payment, in whole or in part, in accordance with Applicable Law, or to such extent as may be necessary to protect itself from loss on account of:

5.3.1 Inadequate or defective Work not remedied.



5.3.2 Claims filed or reasonable evidence indicating probable filing of claims by other parties against Contractor or Municipality relating to Contractor's performance.

5.3.3 Failure of Contractor to make payments properly to Subcontractors or for material or labor.

5.3.4 Damage to another contractor not remedied.

5.3.5 Liquidated damages and costs incurred by Consultant for extended construction administration.

5.3.6 Failure of Contractor to provide documents required by the Contract Documents.

When the above grounds are removed or resolved to the satisfaction of the Contract Administrator, any withheld payment shall be made to the extent otherwise due.

## **ARTICLE 6 ACCEPTANCE AND FINAL PAYMENT**

6.1. Upon receipt of written notice from Contractor that the Work is ready for final inspection and acceptance, Consultant shall conduct an inspection within ten (10) days. If Consultant and Contract Administrator find that the Work is acceptable; that the requisite documents have been submitted; that the requirements of the Contract Documents are fully satisfied; and that all conditions of the permits and regulatory agencies have been met, a Final Certificate of Payment (Form 11) shall be issued by Consultant, under its signature, stating that the requirements of the Contract Documents have been performed and that the Work is ready for acceptance under the terms and conditions of the Contract Documents.

6.2. Before issuance of the Final Certificate for Payment, Contractor shall deliver to Consultant the following Final Payment Package: a complete release of all claims arising out of this Contract, or receipts in full in lieu thereof; an affidavit certifying that all suppliers and Subcontractors have been paid in full and that all other indebtedness and financial obligations connected with the Work have been paid, or, in the alternative, a consent of the Surety to final payment on Contractor's behalf; the final corrected as-built Drawings; and the final bill of Materials, if required, and the final Application for Payment. This Final payment package must include the certification document titled Final List of Non-Certified Subcontractors and Suppliers (Form 13), which must be signed and notarized by Contractor. A list of all noncertified Subcontractors and suppliers used must be attached to this certified document.

6.3. If, after Substantial Completion, Final Completion is materially delayed through no fault of Contractor, and Consultant so certifies, Municipality shall, upon certification of Consultant, and without terminating this Contract, make payment of the balance due for any portion of the Work fully completed and accepted. Such payment shall be made under the terms and conditions governing final payment, but it shall not constitute a waiver of claims.

6.4. Final payment shall be made only after the Board or Municipality's Purchasing Director, as applicable, has reviewed a written evaluation of the performance of Contractor prepared by the Contract Administrator and has approved the final payment. The acceptance of final payment shall constitute a waiver of all claims by Contractor, except those previously made in strict accordance with the provisions

of the General Conditions and identified by Contractor as unsettled at the time of the application for final payment.

## ARTICLE 7 REPRESENTATIONS AND WARRANTIES

7.1. Representation of Authority. Contractor represents and warrants that this Contract constitutes the legal, valid, binding, and enforceable obligation of Contractor, and that neither the execution nor performance of this Contract constitutes a breach of any agreement that Contractor has with any third party or violates Applicable Law. Contractor further represents and warrants that execution of this Contract is within Contractor's legal powers, and each individual executing this Contract on behalf of Contractor is duly authorized by all necessary and appropriate action to do so on behalf of Contractor and does so with full legal authority.

7.2. Solicitation Representations. Contractor represents and warrants that all statements and representations made in Contractor's proposal, bid, or other supporting documents submitted to Municipality in connection with the solicitation, negotiation, or award of this Contract, including during the procurement or evaluation process, were true and correct when made and are true and correct as of the date Contractor executes this Contract, unless otherwise expressly disclosed in writing by Contractor.

7.3. Contingency Fee. Contractor represents that it has not paid or agreed to pay any person or entity, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Contract.

7.4. Public Entity Crimes. Contractor represents that it is familiar with the requirements and prohibitions of the Public Entity Crime Act, Section 287.133, Florida Statutes, and represents that its entry into this Contract will not violate that Act. In addition to the foregoing, Contractor further represents that there has been no determination that it committed a "public entity crime" as defined by Section 287.133, Florida Statutes, and that it has not been formally charged with committing an act defined as a "public entity crime," regardless of the amount of money involved or whether Contractor has been placed on the convicted vendor list.

7.5. Discriminatory Vendor and Scrutinized Companies List; Countries of Concern. Contractor represents that it has not been placed on the discriminatory vendor list as provided in Section 287.134, Florida Statutes, and that it is not a "scrutinized company" pursuant to Sections 215.473 or 215.4725, Florida Statutes. Contractor further represents that it is not, and for the duration of the Contract will not be, ineligible to contract with Municipality on any of the grounds stated in Section 287.135, Florida Statutes. Contractor represents that it is, and for the duration of this Contract will remain, in compliance with Section 286.101, Florida Statutes.

7.6. Claims Against Contractor. Contractor represents and warrants that there is no action or proceeding, at law or in equity, before any court, mediator, arbitrator, governmental or other board or official, pending or, to the knowledge of Contractor, threatened against or affecting Contractor, the outcome of which may (a) affect the validity or enforceability of this Contract, (b) materially and adversely affect the authority or ability of Contractor to perform its obligations under this Contract, or (c) have a material and adverse effect on the consolidated financial condition or results of operations of Contractor

or on the ability of Contractor to conduct its business as presently conducted or as proposed or contemplated to be conducted.

7.7. Verification of Employment Eligibility. Contractor represents that Contractor and each Subcontractor have registered with and use the E-Verify system maintained by the United States Department of Homeland Security to verify the work authorization status of all newly hired employees in compliance with the requirements of Section 448.095, Florida Statutes, and that entry into this Contract will not violate that statute. If Contractor violates this section, Municipality may immediately terminate this Contract for cause and Contractor shall be liable for all costs incurred by Municipality due to the termination.

7.8. Warranty of Performance. Contractor represents and warrants that it possesses the knowledge, skill, experience, and financial capability required to perform and provide all Work and that each person and entity that will perform or provide Work is duly qualified to perform such Work by all appropriate governmental authorities, where required, and is sufficiently experienced and skilled in the area(s) for which such person or entity will render such Work. Contractor represents and warrants that the Work shall be performed in a skillful and respectful manner, and that the quality of all such Work shall equal or exceed prevailing industry standards for such Work.

7.9. Truth-In-Negotiation Representation. Contractor's compensation under this Contract is based upon its representations to Municipality, and Contractor certifies that the wage rates, factual unit costs, and other information supplied to substantiate Contractor's compensation, including without limitation those made by Contractor during the negotiation of this Contract, are accurate, complete, and current as of the date Contractor executes this Contract. Contractor's compensation will be reduced to exclude any significant sums by which the contract price was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs.

7.10. Prohibited Telecommunications Equipment. Contractor represents and certifies that it and its Subcontractors do not use any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, as such terms are used in 48 CFR §§ 52.204-24 through 52.204-26. Contractor represents and certifies that Contractor and its Subcontractors shall not provide or use such covered telecommunications equipment, system, or services at any time during the term of this Contract.

7.11. Breach of Representations. Contractor acknowledges that Municipality is materially relying on the representations, warranties, and certifications of Contractor stated in this article. Municipality shall be entitled to exercise any or all of the following remedies if any such representation, warranty, or certification is untrue: (a) recovery of damages incurred; (b) termination of this Contract without any further liability to Contractor; (c) set off from any amounts due Contractor the full amount of any damage incurred; and (d) debarment of Contractor.

## **ARTICLE 8      MISCELLANEOUS**

8.1. Contract Documents and Priority of Provisions. In the event of any conflict between the terms contained in this Contract and those contained in a Contract Supplement, the terms of such Contract Supplement shall prevail. Furthermore, in the event of any conflict between the terms of the General Conditions included in this Contract and those contained in any General Supplemental Provisions, the

terms of such General Supplemental Provisions shall prevail. In addition, anything shown on the drawings and not mentioned in the specifications or mentioned in the specifications and not shown on the drawings, shall have the same effect as if shown or mentioned respectively in both. In the event of a conflict among the Contract Documents, Contractor shall provide the latest, most stringent, and more technical requirement(s), including, but not limited to, the requirements setting forth the better quality or greater quantity.

8.2. Independent Contractor. Contractor is an independent contractor under this Contract. Work provided by Contractor pursuant to this Contract shall be subject to the supervision of Contractor. In providing such services, neither Contractor nor its agents shall act as officers, employees, or agents of Municipality. This Contract shall not constitute or make the Parties a partnership or joint venture.

8.3. Third-Party Beneficiaries. Except for Broward County to the extent expressly identified herein, neither Contractor nor Municipality intends to directly or substantially benefit a third party by entering into this Contract. Therefore, the Parties agree that, other than Broward County, there are no third-party beneficiaries to this Contract (other than Consultant to the extent this Contract expressly provides Consultant with specific rights or remedies).

8.4. Notices. In order for a notice to a Party to be effective under this Contract, notice must be sent via U.S. first-class mail, hand delivery, or commercial overnight delivery, each with a contemporaneous copy via email, to the addresses listed below and shall be effective upon mailing or hand delivery (provided the contemporaneous email is also sent). Addresses may be changed by the applicable Party giving notice of such change in accordance with this section.

For Municipality:

Osama Elshami,  
Director of Utilities and Engineering  
City of Coconut Creek  
5295 Johnson Road  
Coconut Creek, FL 33073

E-mail: oelshami@coconutcreek.net

For Contractor:

[Insert address]

E-mail:

8.5. Assignment and Performance. Neither this Contract nor any interest herein or proceeds hereof shall be assigned, transferred, or encumbered without the written consent of the other party, and Contractor shall not subcontract any portion of the Work required by this Contract except as authorized by Article 28 of the General Conditions. Any attempted assignment, transfer, encumbrance, or subcontract in violation of this section shall be void and ineffective, and shall constitute a breach of this

Contract. Municipality reserves the right to condition its approval of any assignment, transfer, encumbrance, or subcontract upon further due diligence and an additional fee paid to Municipality to reasonably compensate it for the performance of any such due diligence.

8.6. Materiality and Waiver of Breach. Each requirement, duty, and obligation set forth in this Contract was bargained for at arm's-length and is agreed to by the Parties. Each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Contract and is, therefore, a material term.

8.7. No Waiver. Municipality's failure to enforce any provision of this Contract shall not be deemed a waiver of its right or power to enforce such provision or a modification of this Contract. The failure to assert a breach of a provision of this Contract shall not be deemed a waiver of such breach or of any subsequent breach, nor shall it be construed to be a modification of the terms of this Contract.

8.8. Severability. If any part of this Contract is found to be unenforceable by a court of competent jurisdiction, that part shall be deemed severed from this Contract and the balance of this Contract shall remain in full force and effect.

8.9. Law, Jurisdiction, Venue, Waiver of Jury Trial. This Contract shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Jurisdiction of any controversies or legal problems arising out of this Contract, and any action involving the enforcement or interpretation of any rights hereunder, shall be exclusively in the state courts of the Seventeenth Judicial Circuit in Broward County, Florida, and venue for litigation arising out of this Contract shall be exclusively in such state courts, forsaking any other jurisdiction which either party may claim by virtue of its residency or other jurisdictional device. **EACH PARTY HEREBY EACH EXPRESSLY WAIVES ANY RIGHTS IT MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS CONTRACT. IF A PARTY FAILS TO WITHDRAW A DEMAND FOR A JURY TRIAL AFTER WRITTEN NOTICE BY THE OTHER PARTY, THE PARTY MAKING THE DEMAND FOR JURY TRIAL SHALL BE LIABLE FOR REASONABLE ATTORNEYS' FEES AND COSTS OF THE OTHER PARTY TO CONTEST THE DEMAND FOR JURY TRIAL, AND SUCH AMOUNTS SHALL BE AWARDED BY THE COURT IN ADJUDICATING THE MOTION. CONTRACTOR, PURSUANT TO ARTICLE 28 OF THE GENERAL CONDITIONS, SHALL SPECIFICALLY BIND ALL SUBCONTRACTORS TO THE PROVISIONS OF THIS SECTION.**

8.10. Amendments. Unless otherwise expressly authorized herein, no modification, amendment, or alteration of any portion of this Contract shall be effective unless contained in a written document executed with the same or similar formality as this Contract by duly authorized representatives of Municipality and Contractor.

8.11. Prior Agreements. The Contract is the final and complete understanding of the Parties regarding the subject matter of this Contract and supersedes all prior and contemporaneous negotiations and discussions regarding same. All commitments, agreements, and understandings of the Parties concerning the subject matter of this Contract or the Contract Documents are contained herein.

8.12. Compliance with Laws. Contractor and the Work must comply with all Applicable Law, including, but not limited to, the Americans with Disabilities Act, 42 U.S.C. § 12101, Section 504 of the Rehabilitation Act of 1973, and the requirements of any applicable grant agreements.

8.13. Living Wage Requirement. To the extent Contractor is a “covered employer” within the meaning of the Broward County Living Wage Ordinance, Sections 26-100 through 26-105, Broward County Code of Ordinances, Contractor agrees to and shall pay to all of its employees providing “covered services,” as defined in the ordinance, a living wage as required by such ordinance, and shall fully comply with the requirements of such ordinance, and that Contractor shall ensure all of its Subcontractors that qualify as “covered employers” fully comply with the requirements of such ordinance.

8.14. Workforce Investment Program. This Contract constitutes a “Covered Contract” under the Broward Workforce Investment Program, Broward County Administrative Code Section 19.211 (“Workforce Investment Program”). Contractor affirms it is aware of the requirements of the Workforce Investment Program and agrees to use good faith efforts to meet the First Source Referral Goal and the Qualifying New Hires Goal as set forth therein, including by (a) publicly advertising any vacancies that are the direct result of this Contract (whether those vacancies are with Contractor or its Subcontractors) exclusively with CareerSource Broward for at least five (5) business days and using good faith efforts to interview any qualified candidates referred under the Workforce Investment Program, and (b) using good faith efforts to hire Qualifying New Hires, as defined by the Workforce Investment Program, for at least fifty percent (50%) of the vacancies that are the direct result of this Contract. Until at least one year after the conclusion of this Contract, Contractor shall maintain and make available to Municipality upon request all records documenting Contractor’s compliance with the requirements of the Workforce Investment Program, and shall submit the required Workforce Investment Reports to the Contract Administrator annually by January 31 and within thirty (30) days after the expiration or termination of this Contract. Failure to demonstrate good faith efforts to meet the First Source Referral Goal and the Qualifying New Hires Goal shall constitute a material breach of this Contract.]

8.15. Interpretation. The titles and headings in the Contract Documents are for reference purposes only and shall not in any way affect the meaning or interpretation of this Contract. All personal pronouns shall include the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as “herein” refer to the Contract as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a section or article, such reference is to the section or article as a whole, including the subsections thereof, unless the reference is made to a particular subsection or subparagraph of such section or article. Any reference to “days” means calendar days, unless otherwise expressly stated.

8.16. Sovereign Immunity. Except to the extent sovereign immunity may be deemed to be waived by entering into this Contract, nothing herein is intended to serve as a waiver of sovereign immunity by Municipality nor shall anything included herein be construed as consent by Municipality to be sued by third parties in any matter arising out of this Contract. Municipality is a political subdivision as defined in Section 768.28, Florida Statutes, and shall be responsible for the negligent or wrongful acts or omissions of its employees pursuant to Section 768.28, Florida Statutes.

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement:  
MUNICIPALITY, [CITYOF COCONUT CREEK through its Board, signing by and through its Mayor or Vice-Mayor authorized to execute same by Board action on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_], and CONTRACTOR, signing by and through its \_\_\_\_\_, duly authorized to execute same.

MUNICIPALITY

ATTEST:

\_\_\_\_\_  
Marianne Bowers, City Clerk

By: \_\_\_\_\_  
Rebecca A. Tooley, MAYOR

\_\_\_\_\_  
Print Name

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

I HEREBY CERTIFY that I have approved  
this Agreement as to form and legal  
sufficiency subject to execution by the parties:

\_\_\_\_\_  
Terrill C. Pyburn, City Attorney

**CONTRACT BETWEEN THE CITY OF COCONUT CREEK AND**  
**\_\_\_\_\_ FOR COMPREHENSIVE STREET IMPROVEMENTS PHASE II- SURTAX PROJECT**  
BID/CONTRACT NO.: 12-28-21-3

FOR INDIVIDUAL:

[CONTRACTOR WITNESSES:

\_\_\_\_\_  
Signature

By \_\_\_\_\_

\_\_\_\_\_  
Print/Type Name

\_\_\_\_\_  
(Please Type Name)

\_\_\_\_\_  
Signature

\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Print/Type Name

FOR CORPORATION:

CONTRACTOR

ATTEST:

\_\_\_\_\_  
(Typed Name of Contractor/Firm)

\_\_\_\_\_  
Secretary

By \_\_\_\_\_  
President/Vice President

\_\_\_\_\_  
(Typed Name of Secretary)

\_\_\_\_\_  
(Typed Name and Title)

CORPORATE SEAL

\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_. |



**CONTRACT SUPPLEMENT  
PLANS AND SPECIFICATIONS**

**GENERAL CONDITIONS**  
**ARTICLE 1      CONTRACT DOCUMENTS**

1.1 The Contract Documents shall be followed in strict accordance as to Work, performance, material(s), and dimensions except when Consultant may authorize, in writing, an exception.

1.2 Dimensions given in figures shall predominate over scaled measurements from the Drawings; however, any discrepancies regarding figures shall be resolved by Consultant. Contractor shall not proceed when in doubt as to any dimension or measurement, but shall seek clarification from Consultant.

1.3 Contractor shall be furnished ten (10) copies of this Contract, free of charge, two (2) of which shall be preserved and always made accessible to Consultant and Consultant's authorized representatives. Additional copies of this Contract may be obtained from Municipality at the cost of reproduction.

**ARTICLE 2      INTENTION OF MUNICIPALITY**

Municipality intends to describe in this Contract a functionally complete Project (or part thereof) to be constructed in accordance with this Contract and in accordance with all codes and regulations governing construction of the Project. The Work is a description of Contractor's obligations and responsibilities and is deemed to include preliminary considerations and prerequisites, as well as all labor, materials, equipment, and tasks, that are such an inseparable part of the Work described that exclusion of them from the Work would render performance by Contractor impractical, illogical, or unconscionable, and shall be supplied by Contractor whether or not specifically called for. When words that have a well-known technical or trade meaning are used to describe Work, materials, or equipment, such words shall be interpreted in accordance with that meaning, unless specified otherwise herein. Reference to standard specifications, manuals, or codes of any technical society, organization, or association, or to the laws or regulations of any governmental authority, whether such reference be specific or by implication, shall mean the latest standard specification, manual, code, laws, or regulations in effect at the time of opening of bids for the Project. Contractor shall comply with such specifications, manuals, codes, laws, or regulations. Municipality will have no duties other than those duties and obligations expressly set forth within this Contract.

**ARTICLE 3      PRELIMINARY MATTERS**

3.1. At least five (5) days prior to the pre-construction meeting described in Section 3.2, Contractor shall submit to Consultant for Consultant's review and acceptance:

3.1.1. A progress schedule in the indicated form:

Bar Chart

Modified Critical Path Method ("CPM")

XX CPM

XX Computerized CPM

(CPM is interpreted to be generally as outlined in the Association of General Contractors ("AGC"))

publication, "The Use of CPM in Construction.")

The progress schedule shall indicate the start and completion dates of the various stages of the Work, and shall show an activity network for the planning and execution of the Work. Included with the progress schedule shall be a narrative description of the progress schedule. The progress schedule must be updated monthly by Contractor, submitted as part of each Application for Payment, and must be acceptable to Consultant.

3.1.2. A preliminary schedule of Shop Drawing submissions; and

3.1.3. In a lump sum contract or in a contract that includes lump sum bid items of Work, a preliminary schedule of values for all of the Work that includes quantities and prices of items aggregating the Contract Price and that subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during construction.

In addition, after award but prior to the submission of the progress schedule, Consultant, Contract Administrator, and Contractor shall meet with all utility owners and secure from them a schedule of utility relocation; provided, however, that neither Consultant nor Municipality shall be responsible for the nonperformance by the utility owners.

3.2. At a time specified by Consultant, but before Contractor starts the Work at the Project site, a conference attended by Contractor, Consultant, and others as deemed appropriate by Contract Administrator, will be held to discuss the schedules referred to in Section 3.1; to discuss procedures for handling Shop Drawings and other submittals and for processing Applications for Payment; and to establish a working understanding among the Parties as to the Work.

3.3. Within thirty-five (35) days after the Project Initiation Date set forth in the applicable Notice to Proceed, a conference attended by Contractor, Consultant, and others, as appropriate, will be held to finalize the schedules submitted in accordance with Section 3.1. Within forty-five (45) days after the Project Initiation Date set forth in the applicable Notice to Proceed, Contractor shall revise the original schedule submittal to address all review comments from the progress schedule review conference and resubmit a revised progress schedule to Consultant for review. Consultant's acceptance of the finalized progress schedule shall only be with respect to the orderly progression of the Work to completion within the Contract Time, but such acceptance shall not constitute acceptance by Municipality or Consultant of the means or methods of construction or of the sequencing or scheduling of the Work. Such acceptance will neither impose on Consultant or Municipality responsibility for the progress or scheduling of the Work, nor relieve Contractor from full responsibility therefor. The finalized schedule of Shop Drawing submissions must be acceptable to Consultant as providing a workable arrangement for processing such submissions. The finalized schedule of values must be acceptable to Consultant as to form and substance.

#### **ARTICLE 4      PERFORMANCE BOND AND PAYMENT BOND**

4.1. Within ten (10) days after being notified of the award, Contractor shall furnish a Performance Bond and a Payment Bond containing all the provisions of the Performance Bond (Form 1) and Payment Bond (Form 2). Each Bond shall be in the amount of one hundred percent (100%) of the Contract Price guaranteeing to Municipality the completion and performance of the Work covered in such Contract as well as full payment of all suppliers, laborers, and Subcontractors employed pursuant to this Project. Each

Bond shall be with a surety company that is qualified pursuant to Article 5. Each Bond must name "Broward County" as an additional obligee.

1.1. Each Bond shall continue in effect for one (1) year after Final Completion and acceptance of the Work with liability equal to one hundred percent (100%) of the Contract Price, or an additional bond provided to ensure that Contractor will, upon notification by Municipality, correct any defective or faulty Work or Materials that appear within one (1) year after Final Completion of this Contract.

4.2. Pursuant to the requirements of Section 255.05, Florida Statutes, Contractor shall ensure that the bond(s) referenced above shall be recorded in the Official Records of Broward County and provide Municipality with evidence of such recording.

4.3. In lieu of a Performance Bond and a Payment Bond, Contractor may furnish alternate forms of security in the form of cash, money order, certified check, cashier's check, or unconditional letter of credit. Such alternate forms of security shall be subject to the approval of Municipality and for same purpose, and shall be subject to the same conditions as those applicable above, and shall be held by Municipality for one (1) year after completion and acceptance of the Work.

#### **ARTICLE 5      QUALIFICATION OF SURETY**

5.1 For all Bid Bonds, Performance Bonds, and Payment Bonds over Five Hundred Thousand Dollars (\$500,000.00):

5.1.1. Each bond must be executed by a surety company of recognized standing, authorized to do business in the State of Florida as surety, having a resident agent in the State of Florida, and having been in business with a record of successful continuous operation for at least five (5) years.

5.1.2. The surety company shall hold a current Certificate of Authority as acceptable surety on federal bonds in accordance with United States Department of Treasury Circular 570, Current Revisions. If the amount of the Bond exceeds the underwriting limitation set forth in the circular, in order to qualify as a proper surety herein, the net retention of the surety company shall not exceed the underwriting limitation in the circular, and the excess risks must be protected by coinsurance, reinsurance, or other methods in accordance with Treasury Circular 297, Revised (31 C.F.R. §§ 223.10, 223.11). Further, the surety company shall provide Municipality with evidence satisfactory to Municipality that such excess risk has been protected in an acceptable manner.

5.1.3. A surety company that is rejected by Municipality may be substituted by the Bidder or proposer with a surety company acceptable to Municipality, but only if the bid amount does not increase.

5.1.4. All bonds shall be written through surety insurers authorized to do business in the State of Florida as surety, with the following qualifications as to management and financial strength according to the latest (1986 or later) edition of Best's Insurance Guide, published by AM Best Company, Oldwick, New Jersey:

<b>Amount of Bond</b>	<b>Policy Holder's Ratings</b>
<b>500,001 to 1,500,000</b>	<b>A- III</b>
<b>1,500,001 to 2,500,000</b>	<b>A, VI</b>
<b>2,500,001 to 5,000,000</b>	<b>A VII</b>
<b>5,000,001 to 10,000,000</b>	<b>A VIII</b>
<b>Over 10,000,001</b>	<b>A IX</b>

5.2. For projects that do not exceed Five Hundred Thousand Dollars (\$500,000.00), Municipality may accept a Bid Bond, Performance Bond, and Payment Bond from a surety company that has twice the minimum surplus and capital required by the Florida Office of Insurance Regulation at the time the solicitation is issued, if the surety company is otherwise in compliance with the provisions of the Florida Insurance Code, and if the surety company holds a currently valid Certificate of Authority issued by the United States Department of the Treasury under Sections 9304 to 9308 of Title 31 of the United States Code. The Certificate and Affidavit (Form 4) so certifying should be submitted with the Bid Bond, Performance Bond, and Payment Bond.

5.3. More stringent requirements of any grantor agency may be set forth within the Supplemental Conditions. If there are no more stringent requirements, the provisions of this article shall apply.

**ARTICLE 6 INDEMNIFICATION**

Contractor shall indemnify and hold harmless Municipality and its current, past, and future officers and employees (collectively, "Indemnified Party"), from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees (collectively, a "Claim"), to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of Contractor or persons employed or utilized by Contractor in the performance of this Contract. To the extent considered necessary by Contract Administrator and Municipality Attorney, any sums due Contractor under this Contract may be retained by Municipality until all of Municipality's claims for indemnification pursuant to this Contract have been settled or otherwise resolved, and any amount withheld shall not be subject to payment of interest by Municipality. These indemnifications shall survive the term of this Contract.

**ARTICLE 7 INSURANCE REQUIREMENTS**

1.1. The specific insurance coverage requirements for this project are identified in the Minimum Insurance Requirements Exhibit [W], which is a part of the Contract Documents. For purposes of this article, the term "Municipality" shall include Municipality and its members, officials, officers, and employees.

1.2. For the duration of the Contract, Contractor shall, at its sole expense, maintain at least the minimum limits of insurance coverage designated in the Contract Documents (inclusive of any amount provided by an umbrella or excess policy) in accordance with the terms and conditions stated in this article. If Contractor maintains broader coverage or higher limits than the insurance requirements stated in Exhibit [W], Municipality shall be entitled to all such broader coverages and higher limits. Municipality reserves the right at any time to review and adjust the limits and types of coverage required under this article.

1.3. Contractor shall maintain insurance coverage against claims relating to any act or omission by Contractor, its agents, representatives, employees, or Subcontractors in connection with the Contract. All required insurance under this article shall provide primary coverage, list Municipality as an additional insured, and shall not require contribution from any Municipality insurance, self-insurance or otherwise.

All insurance held by Municipality, as well as Municipality's self-insurance, shall be in excess of and shall not contribute to the required insurance provided by Contractor. Unless prohibited by the applicable policy, Contractor waives any right to subrogation that any of Contractor's insurers may acquire against Municipality, and agrees to obtain same in an endorsement on all lines of insurance required of Contractor under this article including any excess or umbrella policies.

1.4. All required insurance policies must be issued by insurers: (1) assigned an AM Best rating of at least "A-" with a Financial Size Category of at least Class VII; (2) authorized to transact insurance in the State of Florida; or (3) a qualified eligible surplus lines insurer pursuant to Section 626.917 or 626.918, Florida Statutes, with approval by Municipality's Risk Management Division.

1.5. Contractor shall declare in writing any self-insured retentions or deductibles over the limit(s) prescribed in Exhibit [W], and shall submit same to Municipality, at least fifteen (15) days prior to the effective date of the Contract or commencement of the Work for Municipality's written approval of such retentions or deductibles. Contractor shall be solely responsible for and shall pay any deductible or self-insured retention applicable to any claim against Municipality. Municipality may, at any time, require Contractor to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. Contractor agrees that any deductible or self-insured retention may be satisfied by either the named insured or Municipality, if so elected by Municipality, and Contractor agrees to obtain same in endorsements to the required policies.

1.6. To the extent insurance requirements are designated in the Minimum Insurance Requirements, the applicable policies shall comply with the following:

1.6.1. Commercial General Liability Insurance. Policy shall be no more restrictive than that provided by the latest edition of the standard Commercial General Liability Form (Form CG 00 01) as filed for use in the State of Florida by the Insurance Services Office (ISO), with the exception of endorsements specifically required by ISO or the State of Florida, and liability arising out of: Mold, fungus, or bacteria; Terrorism; Silica, asbestos or lead; Sexual molestation; and Architects and engineers professional liability, unless coverage for professional liability is specifically required by this Contract. Municipality, Consultant, and Broward County shall be included on the policy (and any excess or umbrella policy) as "Additional Insureds" on a form no more restrictive than ISO form CG 20 10 (Additional Insured – Owners, Lessees, or Contractor).

1.6.2. Contractor shall maintain products or completed work coverage for a minimum of three (3) years from the date of the final completion of the Work, unless otherwise stated in the Insurance Requirements Exhibit. In that case, the term specified in the Insurance Requirements shall govern the duration of the coverage required by this paragraph.

1.6.3. Business Automobile Liability Insurance. Policy shall be no more restrictive than that provided by Section II (Liability Coverage) of the most recent version of the standard Business Auto Policy (ISO Form CA 00 01) without any restrictive endorsements, including coverage for liability contractually assumed, and shall cover all owned, non-owned, and hired autos used in connection with the performance of Work under this Contract. Municipality and Consultant shall be included on the policy (and any excess or umbrella policy) as "Additional Insureds."

1.6.4. Workers' Compensation/Employer's Liability Insurance. Such insurance shall be no more restrictive than that provided by the latest edition of the standard Workers' Compensation Policy, as filed for use in Florida by the National Council on Compensation Insurance (NCCI), with the

exception of endorsements required by NCCI or the State of Florida. The policy must be endorsed to waive the insurer's right to subrogate against Municipality in the manner which would result from the attachment of the NCCI form "Waiver of our Right to Recover from Others Endorsement" (Advisory Form WC 00 03 13) with Municipality scheduled thereon. Where appropriate, coverage shall be included to the extent required by Applicable Law, including, but not limited to, the Federal Employer's Liability Act, the Jones Act, and the Longshoreman and Harbor Workers' Compensation Act.

If Contractor provides all or a portion of the Workers' Compensation/Employer's Liability insurance required herein via a professional employer organization ("PEO") or employee leasing company, any such Workers' Compensation/Employer's Liability insurance provided will only be deemed acceptable solely for the purposes of insuring Contractor's enrolled employees. In addition, and notwithstanding the foregoing, in order to adequately protect Municipality against injuries to uninsured employees of Subcontractors and non-enrolled employees of Contractor, Contractor must still procure, maintain, and furnish Municipality with evidence of a stand-alone separate Workers' Compensation/Employer's Liability insurance policy issued with Contractor as an additional insured, and complying with all requirements for Contractor provided Workers' Compensation contained in the Contract Documents. It is permissible for Contractor to exclude payroll of leased employees from such separate Workers' Compensation/Employer's Liability insurance policy.

1.6.5. Professional Liability Insurance. Such insurance shall cover Contractor for those sources of liability arising out of the rendering or failure to render professional services in the performance of the services required in this Contract.

1.6.6. Cyber Liability, or Technology Errors and Omissions Insurance. Coverage is required for any system connected to, and, or accessible from the internet. Coverage may be included as part of the required Professional Liability Insurance. Such policy shall cover, at a minimum, the following: Data Loss and System Damage Liability; Security Liability; Privacy Liability; Privacy/Security Breach Response coverage, including Notification Expenses.

1.6.7. Environmental Pollution Liability. Such insurance shall include clean-up costs and provide coverage to Contractor for liability resulting from pollution or other environmental impairment arising out of, or in connection with, Work performed under this Contract, or which arises out of, or in connection with this Contract, including coverage for clean-up of pollution conditions and third-party bodily injury and property damage arising from pollution conditions. Such insurance shall also include Transportation Coverage and Non-Owned Disposal Sites coverage. Should policy provide coverage on a claims-made basis, the coverage shall be in force and effect to respond to all claims reported within at least three (3) years following the period for which coverage is required, unless a longer period is indicated in the Minimum Insurance Requirements, and which claims would have been covered had the coverage been provided on an occurrence basis.

1.6.8. Property Insurance, Builder's Risk, or Installation Floater. Such insurance shall be in force and evidenced to Municipality as a condition precedent to the Notice to Proceed for construction. Coverage shall be "All Risks," Completed Value form with a deductible not to exceed Ten Thousand Dollars (\$10,000) for each claim for all perils except wind and flood. For the perils of wind and flood, Contractor shall maintain a deductible that is commercially feasible but which does not

exceed five percent (5%) of the “values at risk at the time of loss” unless otherwise approved by Municipality.

Sublimits: With respect to coverage for the peril of wind, the policy shall not be subject to any sublimit less than Fifty Million Dollars (\$50,000,000) per occurrence. With respect to the peril of Flood, the policy shall not be subject to any sublimit less than Ten Million Dollars (\$10,000,000) per occurrence. Any sublimit for wind or flood lower than those identified in the foregoing must be approved by Municipality.

Waiver of Occupancy Clause or Warranty-Policy must be specifically endorsed to eliminate any “Occupancy Clause” or similar warranty or representation that the building(s), addition(s) or structure(s) in the course of construction shall not be occupied without specific endorsement of the policy. The policy must be endorsed to provide that the Builder’s Risk coverage will continue to apply until final acceptance of the building(s), addition(s) or structure(s) by Municipality.

Municipality reserves the right to purchase or provide property insurance covering the materials, equipment and supplies that are intended for specific installation in the Project while such materials, equipment and supplies are located at the Project site (this coverage will be specifically to cover property under construction or similar coverage), in transit, and while temporarily located away from the Project site for the purpose of repair, adjustment or storage at the risk of one (1) of the insured parties. This coverage will not cover any of Contractor’s or Subcontractors’ tools, equipment, machinery or provide any business interruption or time element coverage to the contractors. If Municipality elects to purchase property insurance or provide for coverage under its existing insurance for this Project, then in that case, the insurance required to be carried by Contractor may be modified to account for the insurance being provided by Municipality, at Municipality’s discretion. Such modification may also include execution of Waiver of Subrogation documentation. If a claim with respect to this Project is made upon Municipality’s insurance policy, Contractor shall be responsible for up to the first Fifty Thousand Dollars (\$50,000) of the deductible amount for such claim.

1.7. On or before the effective date of the Contract, or at least fifteen (15) days prior to commencement of the Work, Contractor shall provide Municipality with a copy of all Certificates of Insurance or other documentation sufficient to demonstrate the insurance coverage required in this article.

1.8. Contractor shall ensure that all insurance coverages required by this article shall remain in full force and effect without any lapse in coverage for the duration of this Contract and until all performance required by Contractor has been completed, as determined by Contract Administrator. Contractor shall provide notice to Municipality of any cancellation or modification of any required policy at least thirty (30) days prior to the effective date of cancellation or modification, and at least ten (10) days prior to the effective date of any cancellation due to nonpayment, and shall concurrently provide Municipality with a copy of its updated Certificates of Insurance evidencing continuation of the required coverage(s).

1.9. If and to the extent requested by Municipality, Contractor shall provide to Municipality complete, certified copies of all required insurance policies and all required endorsements within thirty (30) days after Municipality’s request.

1.10. Contractor shall ensure that City of Coconut Creek, 4800 West Copans Road, Coconut Creek, FL 33063”, “Broward County, 115 S. Andrews Avenue, Fort Lauderdale, Florida 33301” and Consultant are



listed and endorsed as additional insureds on all policies required under this article. Municipality shall be listed as Certificate Holder.

1.11. Contractor shall require each Subcontractor to maintain insurance coverage that adequately covers the Work provided by that Subcontractor on substantially the same insurance terms and conditions required of Contractor under this article. Contractor shall ensure that all such Subcontractors comply with these requirements and that Municipality, "Broward County," and Consultant are named as additional insureds under the Subcontractors' applicable insurance policies. If Contractor or any Subcontractor fails to maintain the insurance required by the Contract Documents, Municipality may pay any costs of premiums necessary to maintain the required coverage and deduct such costs from any payment otherwise due to Contractor. Contractor shall not permit any Subcontractor to provide Work or any other services under the Contract unless and until the requirements of this section are satisfied. If requested by Municipality, Contractor shall provide, within one (1) business day, evidence of each Subcontractor's compliance with this section.

1.12. If any of the policies required under this article provide claims-made coverage: (1) any retroactive date must be prior to the effective date of the Contract; (2) the required coverage must be maintained after termination or expiration of the Contract for at least the duration stated in Exhibit [A]; and (3) if coverage is canceled or nonrenewed and is not replaced with another claims-made policy form with a retroactive date prior to the effective date of the Contract, Contractor must obtain and maintain "extended reporting" coverage that applies after termination or expiration of the Contract for at least the duration stated in Exhibit [A].

#### **ARTICLE 8 LABOR AND MATERIALS**

8.1 Unless otherwise provided herein, Contractor shall provide and pay for all Materials, labor, water, tools, equipment, light, power, transportation, and other facilities and services necessary for the proper execution and completion of the Work, whether temporary or permanent, and whether or not incorporated or to be incorporated in the Work.

8.2 Contractor shall at all times enforce strict discipline and good order among its employees and Subcontractors at the Project site, and shall not employ on the Project any unfit person or anyone not skilled in the Work to which they are assigned.

#### **ARTICLE 9 ROYALTIES AND PATENTS**

All fees, royalties, and claims for any invention, or pretended inventions, or patent of any article, material, arrangement, appliance, or method that may be used upon or in any manner be connected with the construction of the Work or appurtenances, are hereby included in the prices stipulated in this Contract for said Work.

#### **ARTICLE 10 WEATHER**

Extensions to the Contract Time for delays caused by the effects of inclement weather shall be submitted as a request for a change in the Contract Time pursuant to Article 40. Time extensions are justified only when rain, other inclement weather conditions, or related adverse soil conditions result in Contractor being unable to work at least fifty percent (50%) of the normal workday on controlling items of Work identified on the accepted schedule or updates to that schedule.

## ARTICLE 11 PERMITS, LICENSES, AND IMPACT FEES

11.1. Except as otherwise provided within the Special Instructions for Vendors, Contractor shall secure and pay for all necessary permits and licenses required for the Work pursuant to by Applicable Law. Contractor shall be reimbursed for only the actual amount of the permit fees levied by the permitting authority and paid by the Contractor as evidenced by an invoice or other acceptable documentation issued by the permitting authority. Reimbursement to Contractor shall be on a pass-through basis and shall not include profit or overhead of Contractor. Contractor shall have and maintain appropriate Certificate(s) of Competency, valid for the Work to be performed and valid for the jurisdiction in which the Work is to be performed, for all persons working on the Project for whom a Certificate of Competency is required.

11.2. Municipality shall directly pay for all impact fees levied by any governmental entity with jurisdiction.

## ARTICLE 12 RESOLUTION OF DISPUTES

12.1. To prevent all disputes and litigation, the Parties agree that Consultant shall decide all questions, claims, difficulties, and disputes of whatever nature that may arise relative to the technical interpretation of the Contract Documents or fulfillment of the Contract as to the character, quality, amount, and value of any Work done or materials furnished, or proposed to be done or furnished, under or by reason of the Contract Documents, and Consultant's decisions of all claims, questions, difficulties, and disputes shall be final and binding to the extent provided in Section 12.2. Any claim, question, difficulty, or dispute that cannot be resolved by agreement of the Contract Administrator and Contractor shall be submitted to Consultant in writing within five (5) days after the date of impasse. Unless a different period of time is set forth in this Contract, Consultant shall notify the Contract Administrator and Contractor in writing of Consultant's decision within fourteen (14) days after the date of the receipt of the claim, question, difficulty, or dispute, unless Consultant requires additional time to gather information or allow the Parties to provide additional information. Except for disputes directly related to the promptness of payment as set forth in Section 5.1 of the Contract, all nontechnical administrative disputes shall be determined by the Contract Administrator pursuant to the time periods provided herein. During the pendency of any dispute and after a determination thereof, Contractor, Consultant, and Contract Administrator shall act in good faith to mitigate any potential damages, including utilization of construction schedule changes and alternative means of construction.

12.2. If the determination of a dispute under this article is unacceptable to either party, the party objecting to the determination must notify the other party in writing within ten (10) days of receipt of the written determination. The notice must state the basis of the objection and must be accompanied by a statement that any Contract Time or Contract Price adjustment claimed is the entire adjustment to which the objecting party has reason to believe it is entitled to as a result of the determination. Within sixty (60) days after Final Completion of the Work, the Parties shall participate in mediation to address all objections to any determinations and to attempt to prevent litigation. Neither party shall commence litigation prior to the expiration of the sixty (60) day mediation period. The mediator shall be mutually agreed upon by the Parties. Should any objection not be resolved in mediation, the Parties retain all their legal rights and remedies provided under State law. **A PARTY SPECIFICALLY WAIVES ALL OF ITS RIGHTS, INCLUDING, BUT NOT LIMITED TO, CLAIMS FOR CONTRACT TIME AND CONTRACT PRICE ADJUSTMENTS PROVIDED IN THE CONTRACT, INCLUDING ITS RIGHTS AND REMEDIES UNDER STATE LAW, IF SAID PARTY FAILS TO COMPLY IN STRICT ACCORDANCE WITH THE REQUIREMENTS OF THIS ARTICLE.**

## **ARTICLE 13      INSPECTION OF WORK**

13.1. Consultant and Municipality shall at all times have access to the Work, and Contractor shall provide proper facilities for such access and for inspecting, measuring, and testing.

13.1.1. Should the Contract Documents, Consultant's instructions, or Applicable Law require any of the Work to be specially tested or approved, Contractor shall give Consultant timely notice of readiness of the Work for testing. If the testing or approval is to be made by an authority other than Municipality, timely notice shall be given of the date fixed for such testing. Testing shall be performed promptly, and, where practicable, at the source of supply. If any of the Work is covered up without approval or consent of Consultant, it must, if required by Consultant, be uncovered for examination and properly restored at Contractor's expense.

13.1.2. Reexamination of any of the Work may be ordered by Consultant with prior written approval by the Contract Administrator, and if so ordered, the Work must be uncovered by Contractor. If such Work is found to be in accordance with this Contract, Municipality shall pay the cost of reexamination and replacement by means of a Change Order. If such Work is not in accordance with this Contract, Contractor shall pay such cost.

13.2. Inspectors shall have no authority to permit deviations from, or to relax or waive, any of the provisions of the Contract Documents, or to delay the Project by failure to inspect the materials and Work with reasonable promptness, without the written permission or instruction of Consultant.

13.3. The payment of any compensation, the giving of any gratuity, or the granting of any favor, of any character or form, by Contractor to any inspector, directly or indirectly, is strictly prohibited, and any such act on the part of Contractor will constitute a breach of this Contract.

## **ARTICLE 14      SUPERINTENDENCE AND SUPERVISION**

14.1. Municipality's instructions are to be given through Consultant, which instructions Contractor must strictly and promptly follow in every case. Contractor shall keep on the Project a full-time, competent, English-speaking superintendent and any necessary assistants, all of whom must be satisfactory to Consultant. The superintendent shall not be changed except with the written consent of Consultant, unless the superintendent proves to be unsatisfactory to Contractor and ceases to be in its employ. The superintendent shall represent Contractor; all instructions given to the superintendent shall be as binding as if given to Contractor, and will be confirmed in writing by Consultant upon the written request of Contractor. Contractor shall provide efficient supervision of the Work, using its best skill and attention.

14.2. On a daily basis, Contractor's superintendent shall record, at a minimum, the following information in a bound log: the day; date; weather conditions and how any weather condition affected progress of the Work; time of commencement of Work for the day; the Work being performed; materials, labor, personnel, equipment and Subcontractors at the Project site; visitors to the Project site, including representatives of Municipality, Consultant, or regulatory representatives; any event that caused or contributed a delay to the critical path of the Project; any special or unusual conditions or occurrences encountered; and the time of termination of Work for the day. All information shall be recorded in the daily log in ink, unless otherwise approved by Consultant. The daily log shall be kept on or accessible from

the Project site and shall be available at all times for inspection and copying by Municipality and Consultant.

14.3. The Contract Administrator, Contractor, and Consultant shall meet at least every two (2) weeks (or as otherwise determined by the Contract Administrator) during the course of the Work to review and agree upon the Work performed to date and to establish the controlling items of Work for the next two (2) weeks. Consultant shall publish, keep, and distribute minutes and any comments thereto of each such meeting.

14.4. If Contractor, in the course of performing the Work, finds any discrepancy between this Contract and the physical conditions of the locality, or any errors, omissions, or discrepancies in this Contract, it shall be Contractor's duty to immediately inform Consultant, in writing, and Consultant will promptly review same. Any Work done after such discovery, until authorized, will be done at Contractor's sole risk, without entitlement to reimbursement or compensation.

14.5. Contractor shall supervise and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with this Contract. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction.

#### **ARTICLE 15      MUNICIPALITY'S RIGHT TO TERMINATE CONTRACT**

15.1. The Contract Administrator may give notice in writing to Contractor and its Surety of delay, neglect, or default, specifying the same with a notice to cure, upon the occurrence of any of the following:

15.1.1. Contractor fails to begin the Work within fifteen (15) days after the Project Initiation Date;

15.1.2. Contractor fails to perform the Work with sufficient workers, equipment, or materials to ensure the prompt completion of the Work;

15.1.3. Contractor performs the Work unsuitably or causes it to be rejected as defective and unsuitable;

15.1.4. Contractor discontinues performance of the Work in contravention of the accepted schedule;

15.1.5. Contractor fails to perform any material term set forth in this Contract;

15.1.6. Contractor becomes insolvent or declared bankrupt, commits any act of bankruptcy or insolvency, or makes an assignment for the benefit of creditors; or

15.1.7. From any other cause whatsoever, Contractor fails to carry on the Work in an acceptable manner.

15.2. If Contractor, within a period of ten (10) days after such notice, does not proceed to cure in accordance therewith, then Municipality's awarding authority for this Contract may, upon written certification from Consultant of the fact of such delay, neglect, or default and Contractor's failure to comply with such notice, terminate the services of Contractor, exclude Contractor from the Project site

and take the performance of the Work out of the hands of Contractor, and appropriate or use any or all materials and equipment on the Project site as may be suitable and acceptable. In such case, Contractor shall not be entitled to receive any further payment until the Project is completed. In addition, Municipality may enter into an agreement for the completion of the Project according to the terms and provisions of this Contract, use such other methods as in the Contract Administrator's sole opinion shall be required for the completion of the Project according to the terms and provisions of this Contract, or use such other methods as in the Contract Administrator's sole opinion shall be required for the completion of the Project in an acceptable manner. All damages, costs, and charges incurred by Municipality, together with the costs of completing the Project, shall be deducted from any monies due or which may become due to Contractor. If the damages and expenses so incurred by Municipality shall exceed the unpaid balance, Contractor shall be liable and shall pay to Municipality the amount of said excess.

15.3. If Municipality erroneously, improperly, or unjustifiably terminates for cause, such termination shall be deemed a termination for convenience and the rights and obligations of Municipality and Contractor shall be the same as if the termination had been exercised pursuant to the Termination for Convenience clause as set forth in Section 15.4 below.

15.4. This Contract may be terminated for convenience, for any reason or no reason, in writing by Municipality upon ten (10) days written notice to Contractor (delivered by certified mail, return receipt requested) of intent to terminate and the date on which such termination becomes effective. In such case, Contractor shall be paid for all Work executed and actual expenses incurred prior to termination in addition to termination settlement costs reasonably incurred by Contractor relating to commitments that had become firm prior to the termination. Payment shall include reasonable profit for Work and services performed as limited by Article 39 hereof. All actual expenses incurred shall have sufficient back-up documentation to verify that such expenses were actually incurred by Contractor. No payment shall be made for profit for Work and services that Contractor has not performed. Contractor acknowledges that it has received good, valuable, and sufficient consideration for Municipality's right to terminate this Contract for convenience in the form of Municipality's obligation to provide advance notice to Contractor of such termination in accordance with this Section 15.4.

15.5. Upon receipt of a notice of termination pursuant to Sections 15.2, 15.4, or 15.6, Contractor shall promptly discontinue all affected Work unless the notice of termination directs otherwise, and shall deliver or otherwise make available to Municipality all data, drawings, specifications, reports, estimates, summaries, and such other information as may have been required by this Contract whether completed or in process.

15.6. This Contract may also be terminated by the Board:

15.6.1. Upon the disqualification of Contractor as a CBE or SBE firm by County's Director of the Office of Economic and Small Business Development ("OESBD") if Contractor's status as a CBE or SBE firm was a factor in the award of this Contract and such status was misrepresented by Contractor;

15.6.2. Upon the disqualification of Contractor by County's OESBD Director due to fraud, misrepresentation, or material misstatement by Contractor in the course of obtaining this Contract or attempting to meet the CBE or SBE contractual obligations;

15.6.3. Upon the disqualification of one or more of Contractor's CBE or SBE participants by County's OESBD Director if any such participant's status as a CBE or SBE firm was a factor in the award of this Contract and such status was misrepresented by Contractor or such participant;

15.6.4. Upon the disqualification of one or more of Contractor's CBE or SBE participants by County's OESBD Director if such CBE or SBE participant attempted to meet its CBE or SBE contractual obligations through fraud, misrepresentation, or material misstatement;

15.6.5. If Contractor is determined by County's OESBD Director to have been knowingly involved in any fraud, misrepresentation, or material misstatement concerning the CBE or SBE status of its disqualified CBE or SBE participant; or

15.6.6. If Contractor is a "scrutinized company" pursuant to Sections 215.473 or 215.4725, Florida Statutes, if Contractor is placed on a "discriminatory vendor list" pursuant to Section 287.134, Florida Statutes, or if Contractor is otherwise ineligible to transact business with County or Municipality under Applicable Law or provides a false certification submitted pursuant to Section 287.135, Florida Statutes.

#### **ARTICLE 16      SUSPENSION OF WORK**

Contractor shall carry on the Work and adhere to the progress schedule during all disputes or disagreements with Municipality. No Work shall be delayed or postponed pending resolution of any disputes or disagreements except as Contractor and Municipality may otherwise agree in writing. Suspension of Work by Contractor during any dispute or disagreement with Municipality shall entitle Municipality to terminate this Contract for cause.

#### **ARTICLE 17      PROJECT RECORDS AND RIGHT TO AUDIT**

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

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

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

- f) Compliance with Contract
- g) Compliance with Municipality’s code of ethics
- h) Compliance with Contract provisions regarding the pricing of Change Orders
- i) Accuracy of Contractor representations regarding the pricing of invoices
- j) Accuracy of Contractor representations related to claims submitted by Contractor including Subcontractors, or any of its other payees.

In addition to the normal documentation Contractor typically furnishes to Municipality, in order to facilitate efficient use of Municipality resources when reviewing or auditing Contractor’s billings and related reimbursable cost records, Contractor agrees to furnish (upon request) the following types of information in the specified computer readable file format(s):

Type of Record	File format
Monthly Job Cost Detail	.pdf and Excel
Detailed Job Cost History to Date	.pdf and Excel
Monthly Labor Distribution detail (if not already separately detailed in the Job Cost Detail)	.pdf and Excel
Total Job to Date Labor Distribution detail (if not already included in the detailed Job Cost History to date)	.pdf and Excel
Employee Timesheets documenting time worked by all individuals who charge reimbursable time to the project	.pdf
Daily Foreman Reports listing names and hours and tasks of personnel who worked on the project	.pdf
Daily Superintendent Reports	.pdf
Detailed Subcontract Status Reports (showing original subcontract value, approved subcontract change orders, subcontractor invoices, payment to Subcontractors, etc.	.pdf and Excel
Copies of Executed Subcontracts with all Subcontractors	.pdf
Copies of all executed Change Orders issued to Subcontractors	.pdf
Copies of all documentation supporting all reimbursable job costs (Subcontractor payment applications, vendor invoices, internal cost charges, etc.)	.pdf

17.4 Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for

Municipality's disallowance and recovery of any payment reliant upon such entry.

17.5 If an audit inspection or examination in accordance with this article discloses overpricing or overcharges to Municipality of any nature by Contractor or its Subcontractors in excess of five percent (5%) of the total contract billings reviewed, in addition to making adjustments for the overcharges, Contractor shall pay the actual cost of the audit or, if the actual cost is unreasonably high, the reasonable cost. Any adjustments or payments due as a result of any such audit or inspection shall be made within thirty (30) days after presentation of the audit findings to Contractor.

17.6 Contractor shall, by written contract, require its Subcontractors to agree to the requirements and obligations of this Article 17.

#### **ARTICLE 18 RIGHTS OF VARIOUS INTERESTS**

Whenever work being done by Municipality's forces or by other contractors is contiguous to or within the limits of Work covered by this Contract, the respective rights of the various interests involved shall be established by the Contract Administrator to secure the completion of the various portions of the Work in general harmony.

#### **ARTICLE 19 EXPLOSIVES**

When the use of explosives is necessary in performance of the Work, Contractor shall exercise the utmost care in the handling and usage of such explosives for the protection of life and property. All explosives shall be stored in a safe manner in storage clearly marked "Dangerous-Explosives," and shall be placed in the care of competent watchmen. When the use of explosives becomes necessary, Contractor shall furnish to Municipality proof of insurance coverage, adequately providing public liability and property damage insurance as a rider attached to its regular policies, unless otherwise included in the policies themselves.

#### **ARTICLE 20 DIFFERING SITE CONDITIONS**

If during the course of the Work Contractor encounters (1) subsurface or concealed conditions at the Project site that differ materially from those shown in the Contract Documents and from those ordinarily encountered and generally recognized as inherent in work of the character called for in this Contract; or (2) unknown physical conditions of the Project site, of an unusual nature, which differ materially from that ordinarily encountered and generally recognized as inherent in work of the character called for in this Contract, then Contractor, without disturbing the conditions and before performing any Work affected by such conditions, shall, within twenty-four (24) hours of their discovery, notify Contract Administrator and Consultant in writing of the existence of the aforesaid conditions. Consultant and Contract Administrator shall, within two (2) business days after receipt of Contractor's written notice, investigate the site conditions identified by Contractor. If, in the sole opinion of Contract Administrator, the conditions do materially so differ and cause an increase or decrease in Contractor's cost of, or the time required for, the performance of any part of the Work, whether or not charged as a result of the conditions, Contract Administrator may recommend an equitable adjustment to the Contract Price, or the Contract Time, or both. If Contract Administrator and Contractor cannot agree on an adjustment in the Contract Price or Contract Time, the adjustment shall be referred to Consultant for determination in accordance with the provisions of Article 12. No request by Contractor for an equitable adjustment to this Contract under this provision shall be allowed unless Contractor has given written notice to Contract Administrator in strict



accordance with the provisions of this article. **No request for an equitable adjustment or change to the Contract Price or Contract Time for differing site conditions shall be allowed if made after the date certified by Contract Administrator as the date of Substantial Completion.**

#### **ARTICLE 21 PLANS AND WORKING DRAWINGS**

Municipality, through Consultant, shall have the right to modify the details of the plans and specifications and to supplement the plans and specifications with additional plans, drawings, or additional information as the Work proceeds, all of which shall be considered as part of this Contract. In case of disagreement between the written and graphic portions of this Contract, the written portion shall govern.

#### **ARTICLE 22 CONTRACTOR TO CHECK PLANS, SPECIFICATIONS, AND DATA**

Contractor shall verify all dimensions, quantities, and details shown on the plans, specifications or other data received from Consultant, and shall notify Consultant of all errors, omissions, or discrepancies found therein within three (3) days after discovery. Contractor will not be allowed to take advantage of any error, omission, or discrepancy to not stop or delay Work, because Consultant will advise Contractor how to proceed to avoid stoppage or delay of Work. Contractor shall not be liable for damages resulting from errors, omissions, or discrepancies in this Contract unless Contractor recognized such error, omission, or discrepancy, and failed to report it to Consultant.

#### **ARTICLE 23 CONTRACTOR'S RESPONSIBILITY FOR DAMAGES AND ACCIDENTS**

23.1. Contractor shall accept full responsibility for the Work against all loss or damage of whatsoever nature sustained until final acceptance by Municipality, and shall promptly repair any damage done from any cause whatsoever, except as provided in Article 30.

23.2. Contractor shall be responsible for all Materials, equipment and supplies pertaining to the Project. If any such Materials, equipment or supplies are lost, stolen, damaged, or destroyed prior to final acceptance by Municipality, Contractor shall replace same without cost to Municipality, except as provided in Article 30.

#### **ARTICLE 24 WARRANTY**

Contractor warrants to Municipality that all Materials and equipment furnished under this Contract will be new unless otherwise specified and that all of the Work will be of good quality, free from faults and defects, and in conformance with this Contract. All Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. If required by Consultant, Contractor shall furnish satisfactory evidence as to the kind and quality of Materials and equipment. This warranty is not limited by the provisions of Article 26 herein.

#### **ARTICLE 25 SUPPLEMENTARY DRAWINGS**

25.1. When, in the opinion of Consultant, it becomes necessary to explain the Work to be done more fully, or to illustrate the Work further, or to show any changes that may be required, supplementary drawings, with specifications pertaining thereto, will be prepared by Consultant.

25.2. The supplementary drawings shall be binding upon Contractor with the same force as this Contract. Where such supplementary drawings require either less or more than the original quantities of Work, appropriate adjustments shall be made by Change Order.

#### **ARTICLE 26 DEFECTIVE WORK**

26.1. Consultant has the authority to reject or disapprove Work that Consultant finds to be defective. If required by Consultant, Contractor shall promptly either correct all defective Work or remove such defective Work and replace it with non-defective Work. Contractor shall bear all direct, indirect, and consequential costs of such removal or corrections including cost of testing laboratories and personnel.

26.2. Should Contractor fail or refuse to remove or correct any defective Work or to make any necessary repairs in accordance with the requirements of this Contract within the time indicated in writing by Consultant, Municipality shall have the authority to cause the defective Work to be removed or corrected, or make such repairs as may be necessary, at Contractor's expense. Any expense incurred by Municipality in making such removals, corrections, or repairs, shall, at Municipality's election, be paid for out of any monies due or which may become due to Contractor or charged against the Performance Bond. In the event of failure of Contractor to make all necessary repairs promptly and fully, Municipality may declare Contractor in default.

26.3. If, within one (1) year after Substantial Completion or such longer period of time as may be prescribed by the terms of any applicable special warranty required by this Contract, or by any specific provision of this Contract, any of the Work is found to be defective or not in accordance with this Contract, Contractor, after receipt of written notice from Municipality, shall promptly correct such defective or nonconforming Work within the time specified by Municipality, without cost to Municipality. Nothing contained herein shall be construed to establish a period of limitation with respect to any other obligation that Contractor might have under this Contract, including, but not limited to, Article 24 hereof and any claim regarding latent defects.

26.4. Failure to reject any defective Work or material shall not in any way prevent later rejection when such defect is discovered, nor shall such failure obligate Municipality to final acceptance.

#### **ARTICLE 27 TAXES**

Contractor shall pay all applicable sales, consumer, use, and other taxes required by Applicable Law. Contractor is responsible for reviewing the pertinent state statutes involving state taxes and complying with all their requirements.

#### **ARTICLE 28 SUBCONTRACTS**

28.1. Each Subcontractor must possess certificates of competency and licenses required by Applicable Law. Contractor shall notify the Contract Administrator and Consultant of any change in Subcontractors.

28.2. Contractor shall not employ any Subcontractor against whom Municipality or Consultant may have a reasonable objection. Contractor shall not be required to employ any Subcontractor against whom Contractor has a reasonable objection.

28.3. Contractor shall be fully responsible for all acts and omissions of its Subcontractors, persons directly or indirectly employed by its Subcontractors, and persons for whose acts any of its Subcontractors may be liable to the same extent that Contractor is responsible for the acts and omissions of persons directly employed by it. Nothing in this Contract shall create any contractual relationship between any Subcontractor and Municipality or any obligation on the part of Municipality to pay or to see the payment of any monies due any Subcontractor. Municipality or Consultant may furnish to any Subcontractor evidence of amounts paid to Contractor on account of specific Work performed.

28.4. Contractor shall bind specifically every Subcontractor to the applicable terms and conditions of this Contract for the benefit of Municipality.

28.5.  Contractor shall perform the Work with its own organization, amounting to not less than fifty-five percent (55%) of the Contract Price.

#### **ARTICLE 29      SEPARATE CONTRACTS**

29.1. Municipality has the right to enter into contracts with other parties in connection with this Project. Contractor shall afford such other parties reasonable opportunity for the introduction and storage of their materials and the execution of their work, and shall properly connect and coordinate this Work with theirs.

29.2. If any part of Contractor's Work depends for proper execution or results on the work of any third parties, Contractor shall inspect and promptly report to Consultant any defects in such work that render it unsuitable for such proper execution and results of Contractor's Work. Contractor's failure to so inspect and report shall constitute an acceptance of the third party's work as fit and proper for the performance of Contractor's Work, except as to defects which may develop in the third parties' work after the execution of Contractor's Work.

29.3. Contractor shall conduct its operations and take all reasonable steps to coordinate the prosecution of the Work so as to not interfere with or impact any other contractor on the site. Should such interference or impact occur, Contractor shall indemnify Municipality from any liability to the affected contractor related to such interference or impact.

29.4. To ensure the proper execution of subsequent Work, Contractor shall inspect the Work already in place and shall immediately report to Consultant any discrepancy between the executed Work and the requirements of this Contract.

#### **ARTICLE 30      USE OF COMPLETED PORTIONS**

30.1. Municipality has the right at its sole option to take possession of and use any completed or partially completed portions of the Project ("Designated Area"). Such possession and use shall not be deemed an acceptance of any of the Work not completed in accordance with this Contract. If such possession and use increase the cost of or delays the Work, Contractor shall be entitled to reasonable extra compensation or reasonable extension of time or both, as recommended by Consultant and approved by Municipality.

30.2. If Municipality decides to take possession of any completed or partially completed portions of the Project, the following shall occur:

30.2.1. Municipality shall give notice to Contractor in writing at least thirty (30) days prior to Municipality's intended occupancy of a Designated Area.

30.2.2. Contractor shall complete to the point of Substantial Completion the Designated Area and request inspection and issuance of a Certificate of Substantial Completion (007600-1) from Consultant.

30.2.3. Upon Consultant's issuance of a Certificate of Substantial Completion for the Designated Area, Municipality will assume full responsibility for maintenance, utilities, subsequent damages of Municipality and public, adjustment of insurance coverages, and start of warranty for the Designated Area.

30.2.4. Contractor shall complete all items noted on the Certificate of Substantial Completion within the time specified by Consultant on the Certificate of Substantial Completion, and request final inspection and final acceptance of the portion of the Work occupied. Upon completion of final inspection and receipt of an application for final payment, Consultant shall issue a Final Certificate of Payment relative to the Designated Area.

30.2.5. If Municipality decides to occupy or use a portion or portions of the Work prior to Substantial Completion thereof, such occupancy or use shall not commence prior to a time mutually agreed upon by Municipality and Contractor and to which the insurance company or companies providing the property insurance have consented by endorsement to the policy or policies. Insurance on the unoccupied or unused portion or portions shall not be canceled or lapsed on account of such partial occupancy or use. Consent of Contractor and of the insurance company or companies to such occupancy or use shall not be unreasonably withheld.

#### **ARTICLE 31    LANDS OF WORK**

31.1. Municipality shall provide, as may be indicated in this Contract, the lands upon which the Work is to be performed, rights-of-way and easements for access thereto, and such other lands as are designated by Municipality for the use of Contractor.

31.2. Contractor shall obtain, at Contractor's own expense and without liability to Municipality, any additional rights to land and access thereto that may be required for temporary construction facilities, temporary easements, or for storage of materials. Contractor shall furnish to Municipality copies of written permission obtained by Contractor from the owners of such land.

#### **ARTICLE 32    LEGAL RESTRICTIONS AND TRAFFIC PROVISIONS**

Contractor shall conform to and obey all Applicable Law with regard to labor, hours of work, and Contractor's operations. Contractor shall conduct its operations so as not to close any thoroughfare, nor interfere in any way with traffic on railway, highways, or water, without the written consent of the proper authorities.

#### **ARTICLE 33    LOCATION AND DAMAGE TO EXISTING FACILITIES, EQUIPMENT, OR UTILITIES**

33.1. Utility lines in the Project area have been shown on the Plans. However, Municipality does not represent or warrant that all lines are shown, or that the ones indicated are in their true location.

Contractor must identify and locate all underground and overhead utility lines or equipment affecting or affected by the Project. Contractor will not be entitled to any additional payment or extension of time due to discrepancies between actual location of utilities and Plan location of utilities.

33.2. Contractor shall notify each utility company with facilities in the Project site, at least thirty (30) days prior to the start of construction, to arrange for positive underground location, relocation, or support of its utility where that utility may be in conflict with or endangered by the Work. The cost of relocation of water mains or other utilities for the convenience of Contractor shall be paid by Contractor. All charges by utility companies for temporary support of its utilities shall be paid for by Contractor. All costs of permanent utility relocation to avoid conflict shall be the responsibility of the utility company involved. Contractor will not be entitled to any additional payment or extension of time for utility relocations, regardless of reason for relocation.

33.3. Contractor shall schedule the Work in such a manner that the Work is not delayed by the utility providers relocating or supporting their utilities. Contractor shall coordinate its activities with any and all public and private utility providers occupying the right-of-way. Contractor will not be entitled to any additional compensation or extension of time for any delay associated with utility relocation or support.

33.4. Contractor shall protect all overhead, surface, or underground structures and utilities from damage or displacement. Contractor will promptly and completely repair all damage to such structures within a reasonable time. All damaged utilities must be replaced or fully repaired to the satisfaction of the utility owner. All repairs are to be inspected by the utility owner prior to backfilling. Municipality reserves the right to remedy such damage by making such repairs or causing such repairs to be made at the expense of Contractor. Municipality's expense in causing such repairs shall be deducted from Contractor's next Application for Payment.

#### **ARTICLE 34 VALUE ENGINEERING**

Contractor may request substitution of Materials, articles, pieces of equipment, or any changes that reduce the Contract Price by making such request to Consultant in writing. Consultant will be the sole judge of the acceptability of any proposed substitute, and no substitute will be ordered, installed, used, or initiated without Consultant's prior written acceptance by a Change Order or an approved Shop Drawing. In no event will any substitution accepted by Consultant result in an increase in the Contract Price or Contract Time. By making a request for substitution, Contractor agrees to pay directly to Consultant all Consultant's fees and charges related to Consultant's review of the request for substitution, regardless of whether the request for substitution is accepted by Consultant. Any substitution submitted by Contractor must meet the form, fit, function, and life cycle criteria of the item proposed to be replaced, and there must be a reduction in Contract Price including Consultant review fees and charges. If a substitution is approved, the net dollar savings shall be shared equally between Contractor and Municipality and shall be processed as a deductive Change Order. Municipality may require Contractor to furnish, at Contractor's expense, a special performance guarantee or other surety with respect to any substitute approved after award of this Contract.

#### **ARTICLE 35 PAYMENT BY MUNICIPALITY FOR TESTS**

Except when otherwise specified in the Contract Documents, the expense of all tests shall be borne by Municipality and be performed by a testing firm selected by Municipality. Contractor shall reimburse

Municipality the costs of any required test in which the tested Work fails. For road construction projects, the procedure for making tests required by Municipality will be in conformance with the most recent edition of the State of Florida, Department of Transportation Standard Specifications for Road and Bridge Construction.

#### **ARTICLE 36 CHANGE IN THE WORK OR TERMS OF CONTRACT**

36.1. Without invalidating this Contract and without notice to any surety, Municipality has the right to make such increases, decreases, or other changes in the character or quantity of the Work as may be considered necessary or desirable by Municipality to fully and acceptably complete the proposed Work in a satisfactory manner. Any extra or additional Work within the scope of this Project must be accomplished by means of appropriate Field Orders and Supplemental Instructions or Change Orders.

36.2. Any changes to the terms of this Contract must be contained in a written document, executed by the Parties hereto, with the same formality and of equal dignity as this Contract prior to the initiation of any Work described in such change. This section shall not prohibit the issuance of Change Orders executed only by Municipality, as provided in this Contract.

#### **ARTICLE 37 FIELD ORDERS AND SUPPLEMENTAL INSTRUCTIONS**

37.1. The Contract Administrator, through Consultant, shall have the right to approve and issue Field Orders setting forth written interpretations of the intent of this Contract and ordering minor changes in the Work. Field Orders may not change the Contract Price or the Contract Time.

37.2. Consultant shall have the right to approve and issue Supplemental Instructions setting forth written orders, instructions, or interpretations concerning the Contract Documents or performance of the Work. Supplemental Instructions may not change the Contract Price or the Contract Time.

#### **ARTICLE 38 CHANGE ORDERS**

38.1. Changes in the quantity or character of the Work within the scope of the Project that cannot be accomplished by means of Field Orders or Supplemental Instructions, including all changes resulting in changes to the Contract Price or the Contract Time, shall be authorized only by Change Orders approved in advance and issued in accordance with the provisions of the Municipality's Procurement Code, as amended from time to time.

38.2. Contractor shall not start work on any changes requiring an increase in the Contract Price or the Contract Time until a Change Order setting forth the adjustments is approved by Municipality. Upon receipt of a Change Order, Contractor shall promptly proceed with the Work set forth in the Change Order.

38.3. If satisfactory adjustment cannot be reached for any item requiring a change in the Contract Price or Contract Time, and a Change Order has not been issued, Municipality may, at its sole option, either terminate this Contract as it applies to the items in question and make such arrangements as Municipality deems necessary to complete the work associated with the disputed item or submit the matter in dispute to Consultant as set forth in Article 12.

38.4. Under circumstances determined necessary by Municipality, Change Orders may be issued unilaterally by Municipality. During the pendency of the dispute, and upon receipt of a Change Order from

Municipality, Contractor shall promptly proceed with the change in the Work involved and advise Consultant and Contract Administrator in writing within seven (7) days after receipt of the Change Order of Contractor's agreement or disagreement with the method, if any, provided in the Change Order for determining the proposed adjustment in the Contract Price or Contract Time.

38.5. On approval of any Contract change increasing the Contract Price, Contractor shall promptly ensure that the performance bond and payment bond are increased so that each reflects the total Contract Price as increased. Contractor will promptly provide Municipality such updated bonds.

### **ARTICLE 39 VALUE OF CHANGE ORDER WORK**

39.1. The value of any Work covered by a Change Order or of any claim for an increase or decrease in the Contract Price shall be determined in one of the following ways:

39.1.1 If the Work involved is covered by unit prices contained in this Contract, by application of unit prices to the quantities of items involved, subject to the provisions of Section 39.7.

39.1.2 By mutual acceptance of a lump sum, which sum Contractor and Municipality acknowledge contains a component for overhead and profit.

39.1.3 On the basis of the "Cost of Work," determined as provided in Sections 39.2 and 39.3, plus a Contractor's fee for overhead and profit as determined in Section 39.4.

39.2. The term "Cost of Work" means the sum of all direct costs necessarily incurred and paid by Contractor (or, if applicable, Subcontractor) in the proper performance of the Work described in the Change Order. Except as otherwise may be agreed to in writing by Municipality, such costs shall be in amounts no higher than those prevailing in the locality of the Project; shall include only the following items; and shall not include any of the costs itemized in Section 39.3.

39.2.1 Payroll costs for employees in the direct employ of Contractor in the performance of the Work described in the Change Order under schedules of job classifications agreed upon by Municipality and Contractor. Payroll costs for employees not employed full time on the Work covered by the Change Order shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, vacation, and holiday pay application thereto. Such employees shall include superintendents and foremen at the site. The expenses of performing the Work after regular working hours, on Sunday or legal holidays, shall be included in the above to the extent authorized in advance by Municipality.

39.2.2 Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and manufacturers' field services required in connection therewith. All cash discounts shall accrue to Contractor unless Municipality deposits funds with Contractor to make payments, in which case the cash discounts shall accrue to Municipality. All trade discounts, rebates and refunds, and all returns from sale of surplus materials and equipment shall accrue to Municipality, and Contractor shall make provisions so that they may be obtained. Rentals of all construction equipment and machinery, and the parts thereof, whether rented by

Contractor, in accordance with rental agreements approved by Municipality with the advice of Consultant, and the costs of transportation, loading, unloading, installation, dismantling and removal thereof, all in accordance with the terms of said agreements. Municipality will not be responsible for the cost of the rental of any such equipment, machinery, or parts when the use thereof is no longer necessary for the Work.

39.2.3 If required by Municipality, Contractor shall obtain competitive bids from Subcontractors acceptable to Contractor, and shall deliver such bids to Municipality who will then determine, with the advice of Consultant, which bids will be accepted. If the subcontract provides that the Subcontractor is to be paid on the basis of Cost of Work plus a fee, the Subcontractor's Cost of Work shall be determined in the same manner as Contractor's Cost of Work. All Subcontractors shall be subject to the other provisions of this Contract insofar as applicable.

39.2.4 Cost of special consultants, including, but not limited to, engineers, architects, testing laboratories, and surveyors employed for services specifically related to the performance of the work described in the Change Order.

39.2.5 Supplemental costs including the following:

39.2.5.1 All materials, supplies, equipment, machinery, appliances, office and temporary facilities, including transportation and maintenance thereof, at the site and hand tools not owned by the workers used in the performance of the Work, less market value of such items used but not consumed, and which items remain the property of Contractor.

39.2.5.2 Sales, use, or similar taxes related to the Work, imposed by any governmental authority, for which Contractor is liable.

39.2.5.3 The cost of utilities, fuel, and sanitary facilities at the site.

39.2.5.4 Cost of premiums for additional bonds and insurance required because of changes in the Work.

39.3 The term "Cost of Work" shall not include any of the following:

39.3.1 Payroll costs and other compensation of Contractor's officers, executives, principals (of partnership and sole proprietorships), general managers, engineers, architects, estimators, schedulers, lawyers, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks and other personnel employed by Contractor whether at the site or in its principal or a branch office, for general administration of the Work that are not specifically included in the agreed-upon schedule of job classifications referred to in subsection 39.2.1, all of which payroll costs and other compensation are to be considered administrative costs covered by Contractor's fee.

39.3.2 Expenses of Contractor's principal and branch offices other than Contractor's field office at the Project site.



39.3.3 Any part of Contractor's capital expenses, including but not limited to interest on Contractor's capital employed for the Work as well as charges against Contractor for delinquent payments.

39.3.4 Cost of premiums for all bonds and for all insurance, whether Contractor is required by this Contract to purchase and maintain the same, except for additional bonds and insurance required because of changes in the Work.

39.3.5 Costs due to the negligence or neglect of Contractor, any Subcontractors, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and repairing or remedying any damage to property.

39.3.6 Other overhead or general expense costs of any kind.

39.4 Contractor's fee for overhead and profit shall be determined as follows:

39.4.1 A mutually acceptable fixed fee, or if no fixed fee can be agreed upon;

39.4.2 A fee based on the following percentages of the various portions of the cost of the Work:

39.4.2.1 For costs incurred under subsections 39.2.1 and 39.2.2, Contractor's fee shall not exceed ten percent (10%).

39.4.2.2 For costs incurred under subsection 39.2.3, Contractor's fee shall not exceed seven and one-half percent (7.5%); and if a subcontract is on the basis of cost of the work plus a fee, the maximum allowable to the Subcontractor as a fee for overhead and profit shall not exceed ten percent (10%); and

39.4.2.3 No fee shall be payable on the basis of costs itemized under subsections 39.2.4 and 39.2.5 (except subsection 39.2.5.3) and Section 39.3.

39.5 The amount of credit to Municipality for any change that results in a net decrease in cost will be the amount of the actual net decrease. When both additions and credits are involved in any one change, the combined overhead and profit shall be figured on the basis of the net increase, if any. Contractor shall not be entitled to claim lost profits for any Work not performed.

39.6 Whenever the cost of any Work is to be determined pursuant to Sections 39.2 and 39.3, Contractor will submit in a form acceptable to Consultant an itemized cost breakdown together with the supporting data.

39.7 If the quantity of any item of the Work covered by a unit price is increased or decreased by more than twenty percent (20%) from the quantity of such Work indicated in this Contract, an appropriate Change Order shall be issued to adjust the unit price, if warranted.

39.8 Whenever a change in the Work is to be based on mutual acceptance of a lump sum, whether the amount is an addition, credit or no change-in-cost, Contractor shall submit an initial cost estimate acceptable to Consultant and Contract Administrator.

39.8.1 Such cost estimate shall include a breakdown listing the quantities and unit prices for materials, labor, equipment, and other items of cost.

39.8.2 Whenever a change involves Contractor and one or more Subcontractors and the change is an increase in the Contract Price, overhead and profit percentage for Contractor and each Subcontractor shall be itemized separately.

39.9 Each Change Order must state within the body of the Change Order whether it is based upon unit price, negotiated lump sum, or "Cost of Work."

#### **ARTICLE 40 NOTIFICATION AND CLAIM FOR CHANGE OF CONTRACT TIME OR CONTRACT PRICE**

40.1 Any claim for a change in the Contract Time or Contract Price shall be made by written notice by Contractor to the Contract Administrator and to Consultant within five (5) days of the commencement of the event giving rise to the claim or Contractor's knowledge of the claim, and the notice shall state the general nature and cause of the claim. Thereafter, within twenty (20) days after the termination of the event giving rise to the claim or Contractor's knowledge of the claim, Contractor shall submit written notice of the extent of the claim with supporting information and documentation to the Contract Administrator and Consultant (hereinafter "Claim Notice"). The Claim Notice shall include Contractor's written notarized certification that the adjustment claimed is the entire adjustment to which Contractor has reason to believe it is entitled as a result of the occurrence the event giving rise to the claim. If the Contract Administrator and Contractor cannot resolve a claim for changes in the Contract Time or Contract Price within twenty (20) days after receipt of the Claim Notice by the Contract Administrator and Consultant, then Contractor shall submit the claim to Consultant within five (5) days after the date of impasse in accordance with Article 12 hereof. **IT IS EXPRESSLY AND SPECIFICALLY AGREED THAT ANY AND ALL CLAIMS FOR CHANGES TO THE CONTRACT TIME OR CONTRACT PRICE SHALL BE WAIVED IF NOT SUBMITTED IN STRICT ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION.**

40.2 The Contract Time will be extended in an amount equal to time lost on critical Work items due to delays beyond the control of and through no fault or negligence of Contractor if a claim for an extension is made in accordance with Section 40.1. Such delays shall include, but not be limited to, acts, omissions, or neglect by any separate contractor employed by Municipality, fires, floods, labor disputes, epidemics, abnormal weather conditions or acts of God.

#### **ARTICLE 41 NO DAMAGES FOR DELAY**

No claim for damages or any claim, other than for an extension of time, shall be made or asserted against Municipality by reason of any delays except as provided herein. Contractor shall not be entitled to an increase in the Contract Price or payment or compensation of any kind from Municipality for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency, arising from delay, disruption, interference or hindrance from any cause whatsoever, whether such delay, disruption, interference or hindrance be reasonable or unreasonable, foreseeable or unforeseeable, or avoidable or unavoidable. Contractor shall be entitled only to extensions of the Contract Time as the sole and exclusive remedy for such resulting delay, in accordance with and to the extent specifically provided above; provided, however, that this provision shall not preclude recovery of damages by Contractor for actual delays due solely to fraud, bad faith, or active interference on the

part of Municipality or its Consultant.

**ARTICLE 42      EXCUSABLE DELAY; COMPENSABLE; NON-COMPENSABLE**

42.1 Excusable Delay. Delay that extends the completion of the Work and that is caused by circumstances beyond the control of Contractor or its Subcontractors, suppliers, or vendors are Excusable Delay. Contractor is entitled to a time extension of the Contract Time for each day the Work is delayed due to Excusable Delay. Contractor shall document its claim for any time extension as provided in Article 40 hereof. Failure of Contractor to comply with Article 40 hereof as to any particular event of delay shall be deemed conclusively to constitute a waiver, abandonment, or relinquishment of any and all claims resulting from that particular event of delay. Excusable Delay may be compensable or non-compensable, as provided below.

42.1.1 Compensable Excusable Delay. Excusable Delay is compensable when (i) the delay extends the Contract Time; (ii) is caused by circumstances beyond the control of Contractor or its Subcontractors, suppliers, or vendor; and (iii) is caused solely by fraud, bad faith, or active interference on the part of Municipality or its agents. In no event shall Contractor be compensated for interim delays that do not extend the Contract Time. Contractor shall be entitled to direct and indirect costs for Compensable Excusable Delay. Direct costs recoverable by Contractor shall be limited to the actual additional costs allowed pursuant to Article 39 hereof.

Municipality and Contractor recognize and agree that the amount of Contractor's precise actual indirect costs for delay in the performance and completion of the Work is impossible to determine as of the date of execution of this Contract, and that proof of the precise amount will be difficult. Therefore, indirect costs recoverable by Contractor shall be liquidated on a daily basis for each day the Contract Time is delayed due to a Compensable Excusable Delay. These liquidated indirect costs shall be paid to compensate Contractor for all indirect costs caused by a Compensable Excusable Delay, and shall include, but not be limited to, lost profits, all profit on indirect costs, home office overhead, acceleration, loss of earnings, loss of productivity, loss of bonding capacity, loss of opportunity and all other indirect costs incurred by Contractor. The amount of liquidated indirect costs recoverable shall be Five Hundred Dollars (\$500.00) per day for each day this Contract is delayed due to a Compensable Excusable Delay.

42.1.2 Non-Compensable Excusable Delay. When Excusable Delay is (i) caused by circumstances beyond the control of Contractor, its Subcontractors, suppliers, and vendors; (ii) caused by circumstances beyond the control of Municipality or Consultant; or (iii) caused jointly or concurrently by Contractor or its Subcontractors, suppliers, or vendors and by Municipality or Consultant, then Contractor shall be entitled only to a time extension and no further compensation for the delay.

**ARTICLE 43      SUBSTANTIAL COMPLETION**

When Contractor determines in good faith that the Work, or a portion thereof designated by Municipality pursuant to Article 30 hereof, has reached Substantial Completion, Contractor shall so notify the Contract Administrator and Consultant in writing. Consultant and the Contract Administrator shall then promptly inspect the Work. When Consultant, on the basis of such an inspection, determines that the Work or designated portion thereof is substantially complete, it will then prepare a Certificate of Substantial

Completion (Form 10). The Contract Administrator shall affix its determination to the Certificate of Substantial Completion, which shall establish the Date of Substantial Completion. The Certificate of Substantial Completion shall state the responsibilities of Municipality and Contractor for security, maintenance, heat, utilities, damage to the Work, and insurance. Consultant and the Contract Administrator shall develop and Contractor shall review the list of all Work yet to be completed by Contractor to satisfy the requirements of this Contract for Final Completion and to make the Work satisfactory and acceptable. The list shall be provided to Contractor within five (5) days after final development and review. If the final list is not provided within the stated five (5) days, the Contract Time for completion shall be extended by the number of days exceeding the five (5) days. The failure to include any items of corrective Work on such list does not alter the responsibility of Contractor to complete all Work in accordance with this Contract. Warranties required by this Contract shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion. The Certificate of Substantial Completion shall be submitted to the Contract Administrator and Contractor for their written acceptance of the responsibilities assigned to them in the Certificate of Substantial Completion.

#### **ARTICLE 44 NO INTEREST**

44.1 Unless prohibited by Applicable Law, Municipality shall not be liable to pay any interest to Contractor for any reason, whether as prejudgment interest or for any other purpose, and Contractor waives, rejects, disclaims and surrenders any and all entitlement to interest in connection with a dispute or claim arising from, related to, or in connection with this Contract.

44.2 If the preceding section is inapplicable or is determined to be invalid or unenforceable by a court of competent jurisdiction, the annual rate of interest payable by Municipality under this Contract, whether as prejudgment interest or for any other purpose, shall be, to the full extent permissible under Applicable Law, one quarter of one percent (0.25%) simple interest (uncompounded).

#### **ARTICLE 45 SHOP DRAWINGS**

45.1 Contractor shall submit Shop Drawings as required by the Technical Specifications. The purpose of the Shop Drawings is to show the suitability, efficiency, technique of manufacture, installation requirements, details of the item, and evidence of its compliance or noncompliance with this Contract.

45.2 Within thirty (30) days after the Project Initiation Date specified in the Notice to Proceed, Contractor shall submit to Consultant a complete list of preliminary data on items for which Shop Drawings are to be submitted and shall identify the critical items. Approval of this list by Consultant shall in no way relieve Contractor from submitting complete Shop Drawings and providing all materials and equipment in accordance with this Contract. This procedure is required in order to expedite final approval of Shop Drawings.

45.3 After the approval of the list of items required in Section 45.2 above, Contractor shall promptly request Shop Drawings from the various manufacturers, fabricators, and suppliers.

45.4 Contractor shall thoroughly review and check the Shop Drawings, and shall approve each and every copy by initialing same, and shall transmit a letter of approval to Consultant and Municipality.

45.5 If the Shop Drawings show or indicate departures from the Contract requirements, Contractor shall specify such departures and make specific mention thereof in its letter of transmittal to Consultant and Municipality. Failure to point out such departures shall not relieve Contractor from its responsibility to comply with this Contract.

45.6 Consultant shall review and approve Shop Drawings within twenty-one (21) days after the date received, unless said Shop Drawings are rejected by Consultant for material reasons. Consultant's approval of Shop Drawings will be general and shall not relieve Contractor of responsibility for the accuracy of such Shop Drawings, nor for the proper fitting and construction of the Work, nor for the furnishing of materials or Work required by this Contract but not indicated on the Shop Drawings. No Work called for by Shop Drawings shall be performed until the said Shop Drawings have been approved by Consultant. Approval by Consultant shall not relieve Contractor from responsibility for errors or omissions of any sort on the Shop Drawings.

45.7 No approval will be given to partial submittals of Shop Drawings for items that interconnect or are interdependent where necessary to properly evaluate the design. It is Contractor's responsibility to assemble the Shop Drawings for all such interconnecting or interdependent items, check such items, and then make one submittal to Consultant along with Contractor's comments as to compliance, noncompliance, or features requiring special attention.

45.8 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 ink.

45.9 Contractor shall submit the number of copies of Shop Drawings required by Consultant. Resubmissions of Shop Drawings shall be made in the same quantity until final approval is obtained.

45.10 Contractor shall keep one set of Shop Drawings marked with Consultant's approval at the job site at all times.

#### **ARTICLE 46 FIELD LAYOUT OF THE WORK AND RECORD DRAWINGS**

46.1 The entire responsibility for establishing and maintaining line and grade in the field lies with Contractor. Contractor shall maintain an accurate and precise record of the location and elevation of all pipelines, conduits, structures, maintenance access structures, handholes, fittings and the like, and shall prepare record or "as-built" drawings of the same, which must be sealed by a Professional Surveyor. Contractor shall deliver these records in good order to Consultant as the Work is completed. The cost of all such field layout and recording work is included in the bid prices for the appropriate items. All record drawings shall be made on reproducible paper and shall be delivered to Consultant prior to, and as a condition of, final payment.

46.2 Contractor shall maintain in a safe place at the Project site one record copy of all Drawings, Plans, Specifications, Addenda, written amendments, Change Orders, Field Orders and written interpretations and clarifications in good order and annotated to show all changes made during construction. These record documents together with all approved samples and a counterpart of all approved Shop Drawings shall be available at all times to Consultant for reference. Upon Final Completion of the Project and prior to Final Payment, these record documents, samples, and Shop Drawings shall be delivered to the Contract Administrator.

46.3 Prior to, and as a condition precedent to Final Payment, Contractor shall submit to Municipality Contractor's record drawings or as-built drawings acceptable to Consultant.

#### **ARTICLE 47 SAFETY AND PROTECTION**

47.1 Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Project. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:

47.1.1 All employees on the work site and other persons who may be affected thereby;

47.1.2 All the Work and all materials or equipment to be incorporated therein, whether in storage on or off the Project site; and

47.1.3 Other property at the Project site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

47.2 Contractor shall comply with all Applicable Law of any public body having jurisdiction for the safety of persons or property or to protect person or property from damage, injury, or loss, and Contractor shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify owners of adjacent property and utilities when performance of the Work may affect them. All damage, injury, or loss to any property referred to in subsections 47.1.2 and 47.1.3 above, caused directly or indirectly, in whole or in part, by Contractor, any Subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, shall be repaired or remedied by Contractor. Contractor's duties and responsibilities for the safety and protection of the Work shall continue until such time as all the Work is completed and Consultant has issued a notice to Municipality and Contractor that the Work is acceptable except as otherwise provided in Article 30.

47.3 Contractor shall designate a responsible member of its organization at the Project site whose duty shall be the prevention of accidents. This person shall be Contractor's superintendent unless otherwise designated in writing by Contractor to Municipality.

#### **ARTICLE 48 FINAL BILL OF MATERIALS**

Contractor shall be required to submit to Municipality and Consultant a final bill of materials with unit costs for each bid item for supply of materials installed. This shall be an itemized list of all materials with a unit cost for each material, and the total cost shall be determined on the basis of the unit costs established for each Contract item. A Final Certificate for Payment will not be issued by Consultant until Contractor submits the final bill of materials and Consultant verifies the accuracy of the units of Work.

#### **ARTICLE 49 PROJECT SIGN**

Any requirements for a project sign shall be as set forth within the Technical Specifications section.

#### **ARTICLE 50 CLEANING UP; MUNICIPALITY'S RIGHT TO CLEAN UP**

Contractor shall at all times keep the premises free from accumulation of waste materials or rubbish

caused by its operations. At the completion of the Project, Contractor shall remove all its waste materials and rubbish from and about the Project as well as its tools, construction equipment, machinery, and surplus materials. If Contractor fails to clean up during the performance of the Work or at the completion of the Work, Municipality may do so and the cost thereof shall be charged to Contractor. If a dispute arises between Contractor and separate contractors of Municipality as to their responsibility for cleaning up, Municipality may clean up and charge the cost thereof to the contractors responsible as Consultant shall determine to be appropriate and equitable.

#### **ARTICLE 51 HURRICANE PRECAUTIONS**

51.1 During such periods of time as are designated by the National Weather Services as being a hurricane watch or warning, Contractor, at no cost to Municipality, shall take all precautions necessary to secure the Project site from any damage that may be caused by all threatened storm events, regardless of whether Municipality or Consultant has given notice of same.

51.2 Compliance with any specific hurricane watch or warning precautions will not constitute additional work.

51.3 Suspension of the Work caused by a threatened or actual storm event, regardless of whether Municipality has directed such suspension, will entitle Contractor to additional Contract Time as noncompensable, excusable delay, and shall not give rise to a claim for compensable delay.

#### **ARTICLE 52 REMOVAL OF EQUIPMENT**

In case of termination of this Contract before completion for any cause whatsoever, Contractor, if notified to do so by Municipality, shall promptly remove any part or all of Contractor's equipment and supplies from the property of Municipality, failing which Municipality shall have the right to remove such equipment and supplies at the expense of Contractor.

#### **ARTICLE 53 DOMESTIC PARTNERSHIP REQUIREMENT**

Unless this Contract is exempt from the provisions of the Broward County Domestic Partnership Act, Section 16½-157, Broward County Code of Ordinances ("Act"), Contractor certifies and represents that it will at all times comply with the provisions of the Act, and the contract language referenced in the Act is deemed incorporated in this Contract as though fully set forth in this section. The failure of Contractor to comply shall be a material breach of this Contract, entitling Municipality to pursue any and all remedies provided under Applicable Law including, but not limited to (1) retaining all monies due or to become due Contractor until Contractor complies; (2) termination of this Contract; and (3) suspension or debarment of Contractor.

#### **ARTICLE 54 EQUAL EMPLOYMENT OPPORTUNITY AND CBE/SBE COMPLIANCE**

54.1 No party to this Contract may discriminate on the basis of race, color, sex, religion, national origin, disability, age, marital status, political affiliation, sexual orientation, pregnancy, or gender identity and expression in the performance of this Contract, except that any project assisted by the U.S. Department of Transportation funds shall comply with the nondiscrimination requirements in 49 C.F.R. Part 26. Contractor shall include the foregoing or similar language in its contracts with any Subcontractors.

54.2 Contractor shall comply with all applicable requirements of Section 1-81, Broward County Code of Ordinances, in the award and administration of this Contract. Failure by Contractor to carry out any of the requirements of this article shall constitute a material breach of this Contract, which shall permit Municipality to terminate this Contract or exercise any other remedy provided under this Contract, the Broward County Code of Ordinances, the Broward County Administrative Code, or under other Applicable Law, all such remedies being cumulative.

54.3 Contractor must meet or exceed the required CBE or SBE goal by utilizing the CBE or SBE firms listed in Exhibit V (or a CBE/SBE firm substituted for a listed firm, if permitted) for thirty percent (30%) of total Work under this Contract (the "Commitment"). In performing the Work, Contractor shall utilize the CBE or SBE firms listed in Exhibit V for the scope of work and the percentage of work amounts identified on each Letter of Intent. Promptly upon execution of this Contract by Municipality, Contractor shall enter into formal contracts with the CBE or SBE firms listed in Exhibit V and, upon request, shall provide copies of the contracts to the Contract Administrator and OESBD.

54.4 Each CBE or SBE firm utilized by Contractor to meet the CBE or SBE goal must be certified by OESBD. Contractor shall inform Municipality immediately when a CBE or SBE firm is not able to perform or if Contractor believes the CBE or SBE firm should be replaced for any other reason, so that OESBD can review and verify the good faith efforts of Contractor to substitute the CBE or SBE firm with another CBE or SBE firm. Whenever a CBE or SBE firm is terminated for any reason, Contractor shall provide written notice to OESBD and, upon written approval of the Director of OESBD, shall substitute another CBE or SBE firm in order to meet the CBE or SBE goal, unless otherwise provided in this Contract or agreed to in writing by the Parties. Such substitution shall not be required if the termination results from modification of the scope of services and no CBE or SBE firm is available to perform the modified scope of services; in which event, Contractor shall notify OESBD, and OESBD may adjust the CBE or SBE goal by written notice to Contractor. Contractor shall not terminate a CBE or SBE firm for convenience without OESBD's prior written consent, which consent shall not be unreasonably withheld.

54.5 The Parties stipulate that if Contractor fails to meet the Commitment, the damages to Municipality arising from such failure are not readily ascertainable at the time of contracting. If Contractor fails to meet the Commitment and County determines, in the sole discretion of the OESBD Program Director, that Contractor failed to make Good Faith Efforts (as defined in Section 1-81, Broward County Code of Ordinances) to meet the Commitment, Contractor shall pay Municipality liquidated damages in an amount equal to fifty percent (50%) of the actual dollar amount by which Contractor failed to achieve the Commitment, up to a maximum amount of ten percent (10%) of the total contract amount excluding costs and reimbursable expenses. An example of this calculation is stated in Section 1-81.7, Broward County Code of Ordinances. As elected by Municipality, such liquidated damages amount shall be either credited against any amounts due from Municipality, or must be paid to Municipality within thirty (30) days after written demand. These liquidated damages shall be Municipality's sole contractual remedy for Contractor's breach of the Commitment, but shall not affect the availability of administrative remedies under Section 1-81. Contractor acknowledges and agrees that the liquidated damages provided in this section are proportionate to an amount that might reasonably be expected to flow from a breach of the Commitment and are not a penalty. Any failure to meet the Commitment attributable solely to force majeure, changes to the Scope of Work by Municipality, or inability to substitute a CBE or SBE Subcontractor where the OESBD Program Director has determined that such inability is due to no fault of Contractor, shall not be deemed a failure by Contractor to meet the Commitment.



54.6 Contractor acknowledges that County, may make minor administrative modifications to Section 1-81, Broward County Code of Ordinances, which shall become applicable to this Contract if the administrative modifications are not unreasonable. Written notice of any such modification shall be provided to Contractor and shall include a deadline for Contractor to notify Municipality in writing if Contractor concludes that the modification exceeds the authority under this section. Failure of Contractor to timely notify Municipality of its conclusion that the modification exceeds such authority shall be deemed acceptance of the modification by Contractor.

54.7 OESBD may modify the Commitment in connection with any amendment, extension, modification, or change order to this Contract that, by itself or aggregated with previous amendments, extensions, modifications, or change orders, increases the initial Contract price by ten percent (10%) or more. Contractor shall make a good faith effort to include CBE or SBE firms in work resulting from any such amendment, extension, modification, or change order, and shall report such efforts, along with evidence thereof, to OESBD.

54.8 No later than ten (10) business days after the end of the month, Contractor shall provide written monthly reports to the Contract Administrator and to OESBD (in the form and in the manner requested by OESBD) attesting to Contractor's compliance with the Commitment. In addition, Contractor shall allow Municipality and OESBD to engage in onsite reviews to monitor Contractor's progress in achieving and maintaining the Commitment. The Contract Administrator in conjunction with OESBD shall perform such review and monitoring, unless otherwise determined by the County Administrator.

54.9 The Contract Administrator may withhold progress payments if Contractor fails to demonstrate timely payments of sums due to all Subcontractors and suppliers. The presence of a "pay when paid" provision in a Contractor's contract with a CBE or SBE firm shall not preclude Municipality or its representatives from inquiring into claims of nonpayment.

## **ARTICLE 55 PUBLIC RECORDS**

To the extent Contractor is acting on behalf of Municipality as provided in Section 119.0701, Florida Statutes, Contractor shall:

55.1.1 Keep and maintain public records required by Municipality to perform the services under this Contract;

55.1.2 Upon request from Municipality, provide Municipality with a copy of the requested records or allow the records to be inspected or copied within a reasonable time and at a cost that does not exceed that provided in Chapter 119, Florida Statutes, or as otherwise provided by Applicable Law;

55.1.3 Ensure that public records that are exempt or confidential and exempt from public record requirements are not disclosed except as authorized by Applicable Law for the duration of this Contract and after completion or termination of this Contract if the records are not transferred to Municipality; and

55.1.4 Upon completion or termination of this Contract, transfer to Municipality, at no cost, all public records in possession of Contractor or keep and maintain public records required by Municipality to perform the services. If Contractor transfers the records to Municipality, Contractor shall destroy any duplicate public records that are exempt or confidential and exempt. If Contractor

keeps and maintains public records, Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to Municipality upon request in a format that is compatible with the information technology systems of Municipality.

The failure of Contractor to comply with the provisions of this article shall constitute a material breach of this Contract entitling Municipality to exercise any remedy provided in this Contract or under Applicable Law, all of such remedies being cumulative.

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

Any material submitted to Municipality that Contractor contends constitutes or contains trade secrets or contends is otherwise exempt from production under Florida public records laws (including Florida Statutes Chapter 119) (“Trade Secret Materials”) must be separately submitted and conspicuously labeled “EXEMPT FROM PUBLIC RECORD PRODUCTION – TRADE SECRET.” In addition, Contractor must, simultaneous with the submission of any Trade Secret Materials, provide a sworn affidavit from a person with personal knowledge attesting that the Trade Secret Materials constitute trade secrets under Florida Statutes Section 688.002 and stating the factual basis for same. If a third party submits a request to Municipality for records designated by Contractor as Trade Secret Materials, Municipality shall refrain from disclosing the Trade Secret Materials, unless otherwise ordered by a court of competent jurisdiction or authorized in writing by Contractor. Contractor shall indemnify and defend Municipality and its employees and agents from any and all claims, causes of action, losses, fines, penalties, damages, judgments and liabilities of any kind, including attorneys’ fees, litigation expenses, and court costs, relating to the non-disclosure of any Trade Secret Materials in response to a records request by a third party.

**IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF FLORIDA STATUTES CHAPTER 119 TO CONTRACTOR’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 954-973-6774, PublicRecords@coconutcreek.net, 4800 West Copans Road, Coconut Creek, FL 33063**

#### **ARTICLE 56 PUBLIC OUTREACH**

Contractor shall provide at his/her own cost public outreach in areas where residents and public are impacted per the direction of the Project Manager. For example, where work is directly adjacent to driveways, Contractor must provide door hangers as well as electronic signage in the area and where work involves collector roads not adjacent to driveways, electronic signage would be sufficient.

# EXHIBIT "B"

## FORM 1: PERFORMANCE BOND

Project Name: [Comprehensive Street Improvements Phase II- Surtax Project]  
Project Number: [12-28-21-3]

BY THIS BOND, We [\_\_\_\_\_] located at [\_\_\_\_\_] phone [\_\_\_\_\_] and [\_\_\_\_\_] located at [\_\_\_\_\_] phone [\_\_\_\_\_] as Principal, hereinafter called Contractor, and [\_\_\_\_\_] located at [\_\_\_\_\_] phone [\_\_\_\_\_] and [\_\_\_\_\_] as Surety, under the assigned Bond Number [\_\_\_\_\_] are bound to the City of Coconut Creek, Florida ("City"), and Broward County, Florida, as dual Obligees (hereinafter jointly and severally referred to as "City/County"), in the amount of [\_\_\_\_\_] Dollars (\$[\_\_\_\_\_] for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally.

WHEREAS, Contractor has by written agreement dated the [\_\_\_\_\_] day of [\_\_\_\_\_] 20[\_\_\_\_\_] entered into a Contract, Bid/Contract No. [\_\_\_\_\_] with City, the terms of which contract (including the Contract Documents, as those are defined in the contract) are incorporated by reference herein and made a part hereof as the "Contract," which includes any and all provisions for liquidated damages, and other damages identified.

THE CONDITION OF THIS BOND is that if Contractor:

- 1) Performs the Contract between Contractor and City for construction of [Comprehensive Street Improvements Phase II- Surtax Project], in the time and manner prescribed in the Contract; and
- 2) Pays City/County all losses, liquidated damages, expenses, costs and attorneys' fees including appellate proceedings, that City/County sustains as a result of default by Contractor under the Contract; and
- 3) Performs the guaranties of all work and materials furnished under the Contract for the time specified in the Contract, then THIS BOND IS VOID; OTHERWISE IT REMAINS IN FULL FORCE AND EFFECT.

Whenever Contractor shall be, and is declared by City/County to be, in default under the Contract, with City having performed its obligations thereunder, the Surety may promptly remedy the default, or shall promptly:

- a) Complete the required performance in accordance with the terms and conditions of the Contract Documents; or
- b) Obtain a bid or bids for completing the Project in accordance with the terms and conditions of the Contract Documents, and upon determination by Surety of the lowest responsible Bidder, or, if City/County elects, upon determination by City/County and Surety jointly of the lowest responsible Bidder, arrange for a contract between such Bidder and City/County on the same terms and conditions as the Contract Documents unless otherwise agreed by City/County, and shall make available as work progresses sufficient funds to pay the cost of completion of the Work required by the Contract in an amount less but not exceeding the balance of the Contract Price, which amount shall include 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 City to Contractor under the Contract and any amendments thereto, less the amount properly paid by City to Contractor.

No right of action shall accrue on this bond to or for the use of any person or corporation other than City/County named herein.

The Surety hereby waives notice of and agrees that any changes in or under the Contract Documents and compliance or noncompliance with any formalities connected with the Contract or the changes does not affect Surety's obligation under this Bond.

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

ATTEST:

CONTRACTOR

\_\_\_\_\_  
Corporate Secretary or other  
person authorized to attest

By: \_\_\_\_\_  
Authorized Signor

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name and Title

\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

(CORPORATE SEAL OR NOTARY)

IN THE PRESENCE OF:

SURETY:

\_\_\_\_\_  
Signature

By \_\_\_\_\_  
Agent and Attorney-in-Fact

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Print/Type Name)

\_\_\_\_\_  
Signature

Address: \_\_\_\_\_  
(Street)

\_\_\_\_\_  
(City/State/Zip Code)

Telephone No.: \_\_\_\_\_

Note: This project is SurTax project funded by Broward County, additional language and terms may be included under the Contract.

# EXHIBIT "C"

## FORM 2: PAYMENT BOND

Project Name: Comprehensive Street Improvements Phase II- Surtax Project

Project Number: 12-28-21-3

### KNOW ALL BY THESE PRESENTS:

That we \_\_\_\_\_, as Principal (hereinafter called "Contractor"), located at \_\_\_\_\_, phone \_\_\_\_\_, and \_\_\_\_\_, as Surety, located at \_\_\_\_\_, phone \_\_\_\_\_, under the assigned Bond Number \_\_\_\_\_ and pursuant to Section 255.05, Florida Statutes, are bound to the City of \_\_\_\_\_, Florida ("City") and Broward County, Florida (hereinafter jointly and severally referred to as "City/County"), as dual Obligees, in the amount of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally.

WHEREAS, Contractor has by written agreement dated the \_\_\_\_ of \_\_\_\_\_, 20\_\_\_\_, entered into a Contract, Bid/Contract No. \_\_\_\_\_, with City for construction of Comprehensive Street Improvements Phase II- Surtax Project located at \_\_\_\_\_, the terms of which contract (including the Contract Documents, as those are defined in the contract) are incorporated by reference herein and made a part hereof as the "Contract."

### THE CONDITION OF THIS BOND is that if Contractor:

1. Pays City/County all losses, damages, expenses, costs and attorneys' fees including appellate proceedings, that City/County sustains because of default by Contractor under the Contract; and
2. Promptly makes payments to all claimants as defined by Florida Statute Section 255.05(1) for all labor, materials and supplies used directly or indirectly by Contractor in the performance of the Contract;

### THEN CONTRACTOR'S OBLIGATION SHALL BE VOID; OTHERWISE, IT SHALL REMAIN IN FULL FORCE AND EFFECT SUBJECT, HOWEVER, TO THE FOLLOWING CONDITIONS:

- A. A claimant, except a laborer, who is not in privity with Contractor and who has not received payment for its labor, materials, or supplies shall, within forty-five (45) days after beginning to furnish labor, materials, or supplies for the prosecution of the work, furnish to Contractor a notice that he or she intends to look to the bond for protection.
- B. A claimant who is not in privity with Contractor and who has not received payment for its labor, materials, or supplies shall, within ninety (90) days after performance of the labor or after complete delivery of the materials or supplies, deliver to Contractor and to the Surety, written notice of the performance of the labor or delivery of the materials or supplies and of the nonpayment.
- C. No action for the labor, materials, or supplies may be instituted against Contractor or the Surety unless the notices stated under the preceding conditions (A) and/or (B), as applicable, have been given.

D. Any action under this Bond must be instituted in accordance with the Notice and Time Limitations provisions prescribed in Sections 255.05(2) and 255.05(10), Florida Statutes.

The Surety hereby waives notice of and agrees that any changes in or under the Contract Documents and compliance or noncompliance with any formalities connected with the Contract or the changes does not affect the Surety's obligation under this Bond.

Signed and sealed this [ ] day of [ ], 20[ ].

ATTEST:

CONTRACTOR

\_\_\_\_\_  
Corporate Secretary or other  
person authorized to attest

By: \_\_\_\_\_  
Authorized Signor

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name and Title

[ ] day of [ ], 20[ ]

(CORPORATE SEAL OR NOTARY)

IN THE PRESENCE OF:

SURETY:

\_\_\_\_\_  
Signature

By \_\_\_\_\_  
Agent and Attorney-in-Fact

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Print/Type Name)

\_\_\_\_\_  
Signature

Address: \_\_\_\_\_  
(Street)

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(City/State/Zip Code)

Telephone No.: \_\_\_\_\_

Note: This project is SurTax project funded by Broward County, additional language and terms may be included under the Contract.



**EXHIBIT "E"**

**FORM 4: FORM OF CERTIFICATE AND AFFIDAVIT FOR BONDS \$500,000.00 OR LESS**

TO: CITY OF \_\_COCONUT CREEK\_\_\_\_\_  
E: BID NUMBER: |12-28-21-3|

BIDDER: \_\_\_\_\_  
Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Phone: \_\_\_\_\_  
AMOUNT OF BOND: \_\_\_\_\_

**SURETY BOND COMPANY:**

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Phone: \_\_\_\_\_

This is to certify that, in accordance with Section 287.0935, Florida Statutes, the insurer named above:

- (1) Is licensed to do business in the State of Florida;
- (2) Holds a certificate of authority authorizing it to write surety bonds in the State of Florida;
- (3) Has twice the minimum surplus and capital required by the Florida Insurance Code;
- (4) Is otherwise in compliance with the provisions of the Florida Insurance Code; and
- (5) Currently holds a valid certificate of authority issued by the United States Department of Treasury under 31 U.S.C. §§ 9304-9308.

\_\_\_\_\_  
(Date Signed) Agent and Attorney-in-Fact

*(continued on next page)*





# EXHIBIT "F"

## FORM 5: UNCONDITIONAL LETTER OF CREDIT (PERFORMANCE AND PAYMENT GUARANTY) FORM

UNCONDITIONAL LETTER OF CREDIT

Beneficiary:

City of Coconut Creek, Florida  
City Manager  
Karen M. Brooks,  
City of Coconut Creek  
4800 West Copans Road  
Coconut Creek, Florida 33063

Date of Issue \_\_\_\_\_  
Issuing Bank's No. \_\_\_\_\_  
Applicant: \_\_\_\_\_  
Amount: \_\_\_\_\_  
(in United States Funds)

Expiry: \_\_\_\_\_  
(Date)  
Bid/Contract Number 12-28-21-3 \_\_\_\_\_

We hereby authorize you to draw on (Bank, Issuer Name \_\_\_\_\_)  
at (Branch Address \_\_\_\_\_) by order of and for the account of (Contractor, Applicant, Customer) up to an aggregate amount, in United States Funds, of \$ \_\_\_\_\_  
available by your drafts at sight, accompanied by: A signed statement from the City Manager of the City of Coconut Creek, Florida, or the City Manager's authorized representative that the drawing is due to default in performance of certain obligations on the part of (Contractor, Applicant, Customer) agreed upon by and between the City of Coconut Creek and (Contractor, Applicant, Customer) pursuant to the Bid/Contract No. 12-28-21-3 for Comprehensive Street Improvements Phase II- Surtax Project and Section 255.05, Florida Statutes. Drafts must be drawn and negotiated not later than (expiration date). Drafts must bear the clause: "Drawn under Letter of Credit No. (number), of (Bank name) dated \_\_\_\_\_."

This Letter of Credit shall be renewed for successive periods of one (1) year each unless we provide the City Manager with written notice of our intent to terminate the credit herein extended, which notice must be provided at least thirty (30) days prior to the expiration date of the original term hereof or any renewed one (1) year term. Notification to City of Coconut Creek that this Letter of Credit will expire prior to performance of Contractor's obligations will be deemed a default.

This Letter of Credit sets forth in full the terms of our undertaking, and such undertaking shall not in any way be modified or amplified by reference to any documents, instrument, or agreement referred to herein or in which this Letter of Credit is referred to or this Letter of Credit relates, and any such reference shall not be deemed to incorporate herein by reference any document, instrument, or agreement.

We hereby agree with the drawers, endorsers, and bona fide holders of all drafts drawn under and in compliance with the terms of this Letter of Credit that such drafts will be duly honored upon presentation

to the drawee.

Obligations under this Letter of Credit shall be released one (1) year after the final completion of the Project by the \_\_\_\_\_ (Contractor, Applicant, Customer)\_\_\_\_\_.

This Credit is subject to the "Uniform Customs and Practice for Documentary Credits," International Chamber of Commerce (2007 revision), Publication No. 600 and to the provisions of Florida law. If a conflict between the Uniform Customs and Practice for Documentary Credits and Florida law should arise, Florida law shall prevail. If a conflict between the law of another state or country and Florida law should arise, Florida law shall prevail.

\_\_\_\_\_  
Authorized Signature

# EXHIBIT "G"

## NOTICE OF INTENT TO AWARD

Date

CERTIFIED RETURN RECEIPT REQUESTED

Company Information

Re: Notice of Intent to Award  
Comprehensive Street Improvements Phase II – Surtax Project, BID NO. 12-28-21-3

Dear \_\_\_\_\_ :

Please be advised that City staff and the Director of Utilities and Engineering is recommending to the City Commission award of the above-referenced project to your organization.

This letter is not to be construed as the final award of the contract or a notice to proceed with the work. Final award is subject to review by the City Clerk's Office, City Attorney's Office and the City Manager's Office, and Commission approval.

In order to initiate and expedite the contract process promptly, you must sign and return two (2) original agreements, along with your Certificate of Insurance (requirements attached) to me at the above address. Please return the required documents within ten (10) days from the date of receipt.

The recommendation of award is scheduled for the \_\_\_\_\_ Commission Meeting. The Notice of Award will be issued after the contract has been executed by the City Manager. You will be required to submit Performance and Payment Bonds within ten (10) days of receiving the Notice of Award. Once the City is in receipt of the required Bonds the City will issue the Notice to Proceed.

Should you have any questions, I can be reached at 954-956-1438.

Sincerely,

LINDA JEETHAN  
Procurement Manager  
[ljeethan@coconutcreek.net](mailto:ljeethan@coconutcreek.net)

Enclosures

cc: Contract Administrator

**EXHIBIT "H"**

**NOTICE TO PROCEED**

TO: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

DATE: \_\_\_\_\_

Project Description: City of Coconut Creek for Comprehensive Street Improvements Phase II – Surtax Project, BID NO. 12-28-21-3 in accordance with the Contract Documents.

You are hereby notified to commence work in accordance with the Agreement dated \_\_\_\_\_, on or before \_\_\_\_\_, and you are to complete the work within 280 calendar days thereafter. The date of completion of all work is therefore \_\_\_\_\_.

CITY OF COCONUT CREEK

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

**ACCEPTANCE OF NOTICE**

Receipt of the above NOTICE TO PROCEED is hereby acknowledged by \_\_\_\_\_,

\_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

BY: \_\_\_\_\_

TITLE: \_\_\_\_\_

# EXHIBIT "I"

## NOTICE OF COMMENCEMENT

In accordance with Section 713.13 (1) (h) of the Florida Statutes, a Notice of Commencement is required for the construction of, improvements to, alteration of or repair of real property. The Notice of Commencement must be recorded with Broward County Records, Taxes and Treasury Division, or in the office of the clerk where the real property is located. Therefore, prior to beginning work under this Contract, Contractor shall provide to the City's Contract Administrator a Notice of Commencement recorded in Broward County, Florida.

AFTER RECORDING - RETURN TO:

PERMIT NUMBER:

### NOTICE OF COMMENCEMENT

The undersigned hereby given notice that improvement will be made to certain real property, and in accordance with Chapter 713, Florida Statutes the following information is provided in the Notice of Commencement.

1. **DESCRIPTION OF PROPERTY** (Legal description & street address, if available) TAX FOLIO NO.: \_\_\_\_\_

SUBDIVISION \_\_\_\_\_ BLOCK \_\_\_\_\_ TRACT \_\_\_\_\_ LOT \_\_\_\_\_ BLDG \_\_\_\_\_ UNIT \_\_\_\_\_

2. **GENERAL DESCRIPTION OF IMPROVEMENT:**

3. **OWNER INFORMATION:** a. Name \_\_\_\_\_

b. Address \_\_\_\_\_ c. Interest in property \_\_\_\_\_

d. Name and address of fee simple titleholder (if other than Owner) \_\_\_\_\_

4. **CONTRACTOR'S NAME, ADDRESS AND PHONE NUMBER:**

5. **SURETY'S NAME, ADDRESS AND PHONE NUMBER AND BOND AMOUNT:**

6. **LENDER'S NAME, ADDRESS AND PHONE NUMBER:**

7. Persons within the State of Florida designated by Owner upon whom notices or other documents may be served as provided by Section 713.13 (1) (a) 7., Florida Statutes:  
NAME, ADDRESS AND PHONE NUMBER:

8. In addition to himself or herself, Owner designates the following to receive a copy of the Lienor's Notice as provided in Section 713.13 (1) (b), Florida Statutes:  
NAME, ADDRESS AND PHONE NUMBER:

9. Expiration date of notice of commencement (the expiration date is 1 year from the date of recording unless a different date is specified): \_\_\_\_\_, 20\_\_\_\_

**WARNING TO OWNER: ANY PAYMENTS MADE BY THE OWNER AFTER THE EXPIRATION OF THE NOTICE OF COMMENCEMENT ARE CONSIDERED IMPROPER PAYMENTS UNDER CHAPTER 713, PART I, SECTION 713.13, FLORIDA STATUTES, AND CAN RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS TO YOUR PROPERTY. A NOTICE OF COMMENCEMENT MUST BE RECORDED AND POSTED ON THE JOB SITE BEFORE THE FIRST INSPECTION. IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR AN ATTORNEY BEFORE COMMENCING WORK OR RECORDING YOUR NOTICE OF COMMENCEMENT.**

\_\_\_\_\_  
Signature of Owner or  
Owner's Authorized Officer/Director/Partner/Manager

\_\_\_\_\_  
Print Name and Provide Signatory's Title/Office

State of Florida  
County of Broward

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

By \_\_\_\_\_, as \_\_\_\_\_  
(name of person) (type of authority, ... e.g. officer, trustee, attorney in fact)

For \_\_\_\_\_  
(name of party on behalf of whom instrument was executed)

\_\_\_\_\_ Personally known or \_\_\_\_\_ produced the following type of identification: \_\_\_\_\_

\_\_\_\_\_  
(Signature of Notary Public)

Under Penalties of perjury, I declare that I have read the foregoing and that the facts in it are true to the best of my knowledge and belief (Section 92.525, Florida Statutes).

Signature(s) of Owner(s) or Owner(s)' Authorized Officer/ Director / Partner/Manager who signed above:

By \_\_\_\_\_ By \_\_\_\_\_

Rev. 08-09-07 (S.Recording)

# EXHIBIT "J"

## CHANGE ORDER NO.

**City:** City of Coconut Creek  
4800 West Copans Road  
Coconut Creek, FL 33063

**Project Name:** Comprehensive Street Improvements  
Phase II – Surtax Project  
BID NO. 12-28-21-3

**Contractor:**

**Purchase Order No.:**

In compliance with specifications in the above referenced contract, the Contractor and the City do both hereby agree that the Contractor shall make the following changes, additions or deletions to the work specified in the plans/project and specifications.

**Description:**

CHANGE IN CONTRACT PRICE:	CHANGE IN CONTRACT TIME
Original Contract Price: \$	Original Contract Time:
Previous Change Orders No. 1 to \$	Net change from previous Change Orders:
Contract Price prior to this Change Order: \$	Contract Time prior to this Change Order:
Net <u>increase</u> /decrease of this Change Order: \$	Net Increase/decrease of this Change Order:
Contract Price with all approved Change Orders: \$	Contract Time with all approved Change Order:

**REQUESTED BY**

By \_\_\_\_\_ Date \_\_\_\_\_  
Contractor

**RECOMMENDED**

By \_\_\_\_\_ Date \_\_\_\_\_  
Department Director

**RECOMMENDED**

By \_\_\_\_\_ Date \_\_\_\_\_  
Finance Director

**APPROVED**

By \_\_\_\_\_ Date \_\_\_\_\_  
City Manager

# EXHIBIT "K"

## APPLICATION FOR PAYMENT

Contract Title: Comprehensive Street Improvements Phase II- Surtax Project  
Contract/Purchase Order No.: \_\_\_\_\_ Original Contract Value: \_\_\_\_\_

Contract Change Order Value: \_\_\_\_\_ Current Contract Value: \_\_\_\_\_

Cumulative No. Change Orders: \_\_\_\_\_

**Note:** Contractor shall submit with this Application for Payment form a Schedule of Values.

### Application for Payment is made, as shown below:

- |    |  |          |
|----|--|----------|
| 1. | Original Contract Sum  | \$ _____ |
| 2. | Net Change by Change Orders  | \$ _____ |
| 3. | Contract Sum to Date<br>(Line 1 (+) or (-) Line 2)                           | \$ _____ |
| 4. | Total Completed and Stored to Date   | \$ _____ |
| 5. | Retainage  |          |
|    | a. 10% of Completed Work   | \$ _____ |
| 6. | Total Earned less Retainage<br>(Line 4 – Line 5c)                            | \$ _____ |
| 7. | Less Previous Application For Payment<br>(Subtract line 6 from prior A.F.P.) | \$ _____ |
| 8. | Current Payment Due  | \$ _____ |
| 9. | Balance to Finish, plus Retainage<br>(Line 3 – Line 6)                       | \$ _____ |

Submitted by: \_\_\_\_\_  
Contractor

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

Approved for  
Payment: \_\_\_\_\_  
Project Administrator

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



**EXHIBIT "L"**

Prepared by  
Name  
Address  
Address

Return to:

City of Coconut Creek  
4800 West Copans Road  
Coconut Creek, FL 33063

**CONTRACTOR'S FINAL WAIVER OF LIEN**

(From a corporation)

PROJECT NO:12-28-21-3\_\_\_\_\_   
Improvements Phase II- Surtax Project

PROJECT NAME: Comprehensive Street

KNOW ALL MEN BY THESE PRESENTS: That

\_\_\_\_\_  
,  
\_\_\_\_\_

a corporation, (Contractor) for and in consideration of payment in full from \_\_\_\_\_, (Owner), the sufficiency and receipt of which is hereby acknowledged, has a direct contract with the Owner for \_\_\_\_\_ work, labor, and materials or services heretofore and/or hereafter furnished in regards thereto, including all extras and change orders, hereby releases and waives any and all liens, lien rights or claims whatsoever which the Contractor now has or may acquire against the Owner's property in Broward County, Florida, legally described as

(Subject Property).

Contractor certifies that all laborers employed by the Contractor for work provided to the subject property have been paid in full and that all suppliers, material men and subcontractors who have furnished labor, materials or supplies to Subject Property under a direct contract with the Contractor have been paid in full or, if not, are shown on the Final Contractor's Affidavit attached. Final Waivers of Lien have been obtained or are attached, from all parties who have filed a Notice to Owner as a Vendor to the Contractor, or have not furnished any labor, material or services under the Notice to Owner.

I, \_\_\_\_\_, the undersigned, an Officer of \_\_\_\_\_, a corporation, hereby certify that I have the power and authority to execute this Final Waiver of Lien for and on behalf of the Contractor. I further certify understand that I am aware that any false statement made by me, either individually or for and on behalf of the Contractor, constitutes perjury and that the State Florida provides penalties for making any false statements in a document of this kind.

IN WITNESS WHEREOF, \_\_\_\_\_(Name of Contractor Corporation), a  
\_\_\_\_\_(State of Incorporation) corporation has caused this Contractor's Final Waiver  
of Lien to be executed in its name and its corporate seal to be affixed by its duly authorized officer, this  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

CONTRACTOR:

(Corp seal)  
ATTEST:

\_\_\_\_\_, a corporation  
(Here insert state of incorporation)

\_\_\_\_\_  
\_\_\_\_\_, Secretary

By: \_\_\_\_\_  
\_\_\_\_\_, President

(Print/type/stamp name of \_\_\_\_\_-sec.)

(Print/type/stamp name of \_\_\_\_\_-pres.)

Witness:

Witness:

\_\_\_\_\_  
\_\_\_\_\_  
(Print/type/stamp name of witness)

\_\_\_\_\_  
\_\_\_\_\_  
(Print/type/stamp name of witness)

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

The foregoing Contractor's Final Waiver of Lien was acknowledged before me this day of  
\_\_\_\_\_, 20\_\_ by \_\_\_\_\_, \_\_\_\_\_ president (name  
and title), and \_\_\_\_\_, \_\_\_\_\_ secretary (name and title) of  
\_\_\_\_\_ (name of corporation), a \_\_\_\_\_ (state or place of  
incorporation) corporation, who is/are personally known to me or has/have produced \_\_\_\_\_  
\_\_\_\_\_, (type of ID) and \_\_\_\_\_ (type of ID),  
respectively, as identification.

\_\_\_\_\_  
Notary Public-State of \_\_\_\_\_

(Print/type/stamp name of Notary Public)

My commission expires: \_\_\_\_\_

My commission number is: \_\_\_\_\_

(N.P. Seal)



# MONTHLY (CBE) UTILIZATION REPORT

Report No. \_\_\_\_\_

<b>Contract #:</b>	<b>Contract Amount:</b>	<b>Date Form Submitted:</b>	
<b>Project Description:</b>			
<b>Prime Contractor:</b>		<b>Project Completion Date:</b>	
<b>Contact Person:</b>		<b>Period Ending:</b>	<b>Amt. Paid to Prime:</b>
		<b>Telephone#:</b> (    ) (    )	<b>Fax#:</b> (    ) (    )

## SUBCONTRACTING INFORMATION

CBE Subcontractor	Address	Description of Work	Original Agreed Price	Revised Agreed Price	% of work Completed to Date	Amount Paid This Period	Amount Paid To Date
<b>TO BE SUBMITTED TO BROWARD COUNTY OFFICE OF ECONOMIC AND SMALL BUSINESS DEVELOPMENT</b>							
<b>Total Amount Paid to Subcontractors to Date:</b>							

I certify that the information submitted in this report is in fact true and correct to the best of my knowledge

<b>Signature:</b>	<b>Date:</b>
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**Note: The information provided herein is subject to verification by the Office of Economic and Small Business Development.**



## FINAL (CBE) UTILIZATION REPORT

Report No. \_\_\_\_\_

### EXHIBIT "N" FORM 7: FINAL (CBE/SBE) UTILIZATION REPORT

<b>Contract #:</b>	<b>Contract Amount:</b>	<b>Date Form Submitted:</b>	
<b>Project Description:</b>			
<b>Prime Contractor:</b>		<b>Project Completion Date:</b>	
<b>Contact Person:</b>		<b>Period Ending:</b>	<b>Amt. Paid to Prime:</b>
		<b>Telephone#: ( ) ( )</b>	<b>Fax#: ( ) ( )</b>

#### SUBCONTRACTING INFORMATION

TO BE SUBMITTED TO BROWARD COUNTY OFFICE OF ECONOMIC AND SMALL BUSINESS DEVELOPMENT CBE Subcontractor	Address	Description of Work	Original Agreed Price	Revised Agreed Price	% of work Completed to Date	Amount Paid This Period	Amount Paid To Date
<b>Total Amount Paid to Subcontractors to Date:</b>							

I certify that the information submitted in this report is in fact true and correct to the best of my knowledge

<b>Signature:</b>	<b>Date:</b>
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**Note: The information provided herein is subject to verification by the Office of Economic and Small Business Development.**







**EXHIBIT "R"**

**FORM 10: CERTIFICATE OF SUBSTANTIAL COMPLETION**

Contract No. \_\_\_\_\_

Project (Name and Address): Comprehensive Street Improvements Phase II- Surtax Project

To (City): CITY OF COCONUT CREEK

Consultant: \_\_\_\_\_

Contractor: \_\_\_\_\_

Notice to Proceed Date: \_\_\_\_\_

Consultant: \_\_\_\_\_

Date of Issuance: \_\_\_\_\_

Project or Designated Portion Shall Include:

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

The Work performed under this Contract has been reviewed and found to be substantially complete and all documents required to be submitted by Contractor under the Contract Documents have been received and accepted.

The date of Substantial Completion of the Project or portion thereof designated above is recommended as: January 31, 2023

Unless otherwise defined in the contract, the definition of date of Substantial Completion is that date, as certified in writing by Consultant and as finally determined by Contract Administrator in its sole discretion, on which the Work, or a portion thereof, is at a level of completion in substantial compliance with the Contract Documents, such that all conditions of permits and regulatory agencies have been satisfied and the Owner or its designee can enjoy use or occupancy and can use or operate the Project in all respects for its intended purpose. A Certificate of Occupancy (or a Temporary Certificate of Occupancy or other alternate municipal/county authorization for limited or conditional occupancy acceptable to the Contract Administrator) must be issued for Substantial Completion to be achieved; however, the issuance of a Certificate of Occupancy or the date thereof does not constitute Substantial Completion.

***A list of items to be completed or corrected that has been prepared by Consultant and approved by City is attached hereto.*** The failure to include any items on such list does not alter the responsibility of Contractor to complete all work in accordance with the Contract Documents.

\_\_\_\_\_  
Consultant

\_\_\_\_\_  
By

\_\_\_\_\_  
Date



In accordance with the terms of the Contract, Contractor will complete or correct the work on the list of items attached hereto within [Sixty (60) days] from the above date of Substantial Completion.

\_\_\_\_\_  
Contractor By \_\_\_\_\_ Date \_\_\_\_\_  
City, through the City Manager, has determined the Work or portion thereof designated by City is substantially complete and will assume full possession thereof at \_\_\_\_\_ (time) on \_\_\_\_\_ (date).

CITY OF COCONUT CREEK: \_\_\_\_\_  
By City Manager Date  
Karen M. Brooks

The responsibilities of City and Contractor for security, maintenance, heat, utilities, damage to the work and insurance shall be as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**EXHIBIT "T"**

**FORM 12: FORM OF FINAL RECEIPT**

[The following form will be used to show receipt of final payment for this Contract.]

**FINAL RECEIPT FOR CONTRACT NO.** \_\_\_\_\_

Received this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, from the City of \_\_\_\_\_, Florida, the sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) as full and final payment to Contractor for all work and materials for the Project described as:

Comprehensive Street Improvements Phase II- Surtax Project

This sum includes full and final payment for all extra work and material and all incidentals.

Contractor hereby indemnifies and releases the City of Coconut Creek from all liens and claims whatsoever arising out of the Contract and Project.

Contractor hereby certifies that all persons doing work upon or furnishing materials or supplies for the Project have been paid in full. In lieu of this certification regarding payment for work, materials and supplies, Contractor may submit a consent of surety to final payment in a form satisfactory to the City of Coconut Creek\_.

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

[If incorporated sign below.]

**CONTRACTOR**

ATTEST:

CONTRACTOR NAME

\_\_\_\_\_  
Corporate Secretary or other  
person authorized to attest

By: \_\_\_\_\_  
Authorized Signor

(CORPORATE SEAL OR NOTARY)

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

[If not incorporated sign below.]

CONTRACTOR

WITNESSES:

\_\_\_\_\_  
Witness signature

\_\_\_\_\_  
Print/Type Name

\_\_\_\_\_  
Witness signature

\_\_\_\_\_  
Print/Type Name

\_\_\_\_\_  
Business Name

By: \_\_\_\_\_  
Authorized Signor

\_\_\_\_\_  
Print/Type Name and Title

\_\_\_\_\_] day of \_\_\_\_\_, 20\_\_\_\_]

**EXHIBIT "U"**

**FORM 13: FINAL LIST OF NON-CERTIFIED SUBCONTRACTORS AND SUPPLIERS**

To: \_\_\_\_\_, Contractor

From: Broward County Purchasing Division

Subject: Final List of Non-certified Subcontractors/Sub-vendors

Re: Comprehensive Street Improvements Phase II- Surtax Project \_\_\_\_\_  
\_\_\_\_\_  
(Project Title, Contract Number)

The attached list of non-certified Subcontractors/sub-vendors have performed or provided services to the County for the referenced contract. Non-certified Subcontractors/sub-vendors are any Subcontractors/sub-vendors whose services under the Contract were not approved to meet the County's participation CBE/SBE goal established for this Contract, and whose participation was not listed on Contractor's "Schedule of Participation" and/or not approved as substitutes or additions by the Broward County Office of Economic Small Business Development Division toward meeting the established goal.

Contractor certifies the following:

- There were no other non-certified Subcontractors/sub-vendors who provided a service to the City for the referenced Contract. All participants on the Contract are listed on the attached list.
- There were other non-certified Subcontractors/sub-vendors who provided a service and are not listed on the attached list. The additional Subcontractors/sub-vendors are listed on the attached list.

THE UNDERSIGNED VENDOR HEREBY CERTIFIES THAT THE INFORMATION PROVIDED HEREIN IS TRUE AND CORRECT.

The foregoing instrument was acknowledged before me, by means of  physical presence or  online notarization, \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by \_\_\_\_\_ who is personally known to me or who has produced \_\_\_\_\_ as identification and who  did  did not take an oath.

Notary Public:

(Seal)

\_\_\_\_\_  
(Signature)  
\_\_\_\_\_  
(Print Name)

Commission No: \_\_\_\_\_ Expires: \_\_\_\_/\_\_\_\_/\_\_\_\_

State of \_\_\_\_\_ at Large

**Exhibit "V"**  
**CBE or SBE Firms**