



**CONTRACT BETWEEN BROWARD COUNTY AND  
LEE CONSTRUCTION GROUP, INC.  
FOR JOB ORDER CONTRACT (JOC) STEP 2 (AVIATION NON-SHELTERED MARKET)  
BID/CONTRACT NO.: PNC2119543C1**

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## CONTRACT

This is a construction contract ("Contract") by and between Broward County, a political subdivision of the State of Florida ("County"), and LEE Construction Group, Inc., (collectively referred to as the "Parties"), for the goods and services set forth herein.

## RECITALS

A. This Contract governs the issuance of any Job Order(s) as defined below and described in further detail in the applicable Project Manual.

B. County approved a separate agreement with The Gordian Group, Inc. for (RFP) No. PNC2116439P1 to help develop, implement, and support such a countywide Job Order Contract Program, of which this Contract is a part, on April 9, 2019.

C. As part of the countywide Job Order Contract Program, County issued a request for qualifications ("RFQ") No. PNC2119543R1, Job Order Contract, as the first step of a two-step RFQ/Bid procurement process on October 22, 2019.

D. County solicitation was advertised to firms on July 21, 2020 as the second step of the two-step process, with this Contract awarded to Contractor as one of the lowest responsive and responsible bidders.

E. Contractor represents that it is experienced in providing the construction services necessary to complete any Work required by a Job Order issued pursuant to this Contract.

F. County desires to engage Contractor to provide construction services on a Job Order basis.

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. **Bidder** means an entity or individual who bid on this Contract, acting directly or through a duly authorized representative.

1.2. **Board** means the Board of County Commissioners of Broward County, Florida, its successors and assigns.

1.3. **Change Order or Supplemental Job Order** means a written document ordering a material change in the Work, which may include an addition or deletion of the Work required under the applicable Job Order and a change in the Job Order Amount and/or Job Order Completion Time.

1.4. **Consultant** means the architect or engineer who has contracted with County, or who is an employee of County, and provides professional services for the applicable Job Order. In this Contract and the attached General Conditions, Consultant does **not** refer to The Gordian Group, Inc., which is providing program consulting services.

1.5. **Contract Administrator** means the Director of Facilities Management Division, or Assistant Director of Facilities Management Division, or such other person designated by the Director of Facilities Management Division in writing.

1.6. **Contract Documents** means the official documents setting forth bidding information, requirements and contractual obligations including the Contract, Invitation for Bid, Scope of Work, Special Instructions to Vendors, Supplements, JOC Project Manual, Exhibits, Certificates, Closeout Forms, Construction Task Catalog®, General Conditions, Supplementary Conditions, Plans, Drawings, Addenda, General Requirements, Project Forms, Certifications, Bid Forms, Bid Tender Form, Record of Award by Board, Bonds, Notice of Award, Notices(s) to Proceed, Proposals, Price Proposals, Purchase Order(s), Job Order(s), Supplemental Job Order(s), Field Order(s), Supplemental Instructions, JOC Supplemental Conditions, and any additional documents the submission of which is required by a Job Order.

1.7. **Contract Price** means the not-to-exceed amount established in the bid submittal, which is based upon adjustment factors provided by Bidder, as well as the Construction Task Catalog® as awarded by the County.

1.8. **Contract Time** means the term of the Contract established in Article 3, as may be terminated, renewed, or extended by County.

1.9. **Contractor** means the person, firm, or corporation with whom County 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.

1.10. **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.

1.11. **Field Order** means a written order that orders minor changes in the Work required under the applicable Job Order but which does not involve a change in the Job Order Amount or Job Order Completion Time.

1.12. **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.

1.13. **Job Order or Project** means a particular construction project as well as the document issued by County under this Contract assigning the construction project to the Contractor. Either term may be used interchangeably with the other within this Contract and General Conditions. Each Job Order authorizes the Contractor to perform specified services and details the terms of payment and scope of work for the services authorized. Additional information regarding Job Orders can be found in the JOC Project Manual.

1.14. **Job Order Amount** means the amount to be paid to the Contractor for completing the Work required under an applicable Job Order within the Job Order Completion Time and which may be amended by Change Order or Supplemental Job Order. The sum of all the Job Order Amounts shall not exceed the Contract Price.

1.15. **Job Order Completion Time** means the time between commencement and completion of the Work required under the applicable Job Order and any Notice to Proceed, including any milestone dates thereof, as may be amended by Change Order. The Job Order Completion Time is the period of time allotted for the Contractor to achieve Final Completion of the Work detailed in an applicable Job Order.

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

1.17. **Notice(s) to Proceed** means a written notice to Contractor authorizing the commencement of the Work required under the applicable Job Order. A Notice to Proceed is issued by the Contract Administrator after the Job Order and Purchase Order. All three (3) documents must be issued for the Work to begin.

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

1.19. **Project Initiation Date** means the start date upon which the Job Order Completion Time commences, as set forth in the applicable Job Order.

1.20. **Purchase Order** means a document provided by the County, after issuing a Job Order, to formalize a purchase transaction with Contractor, conveying acceptance of Contractor's proposal, prior to the issuance of the Notice to Proceed. The Job Order, Purchase Order, and Notice to Proceed must all be issued for the Work to begin.

1.21. **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.

1.22. **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.

1.23. **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 County 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.

1.24. **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.

1.25. **Work** means the construction and services required by a Job Order issued under this Contract, 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.

## **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 applicable Project(s).

## **ARTICLE 3      CONTRACT TIME**

3.1. The initial term of this Contract is for a period of two (2) years starting from the effective date of the Contract and ending at 11:59 p.m. on the day preceding the second anniversary of that date (the "Initial Term"). Beyond the Initial Term, County may have the option, through County's Purchasing Director, subject to vendor acceptance, satisfactory performance and determination that renewal will be in the best interest of the County, to renew this Contract, under the same terms and conditions, for up to three (3) consecutive one (1) year terms; County's Purchasing Director may exercise this renewal option by sending a notice of renewal to Contractor at least thirty (30) days prior to the expiration of the then-current term. Any renewal by County's Purchasing Director shall not result in any substantive change to the Contract's terms.

3.2. Contractor shall be instructed to commence the Work by written instruction in the form of a Job Order, a Purchase Order, and a Notice to Proceed issued by the Contract Administrator.

All three (3) documents must be issued for the Work to begin. The Notice to Proceed and Purchase Order will not be issued until Contractor's submission to County of all required documents and after execution of this Contract by both Parties.

3.3. Time is of the essence throughout this Contract. Contractor must obtain Substantial Completion and Final Completion of the Work within the time periods specified in each applicable Job Order.

3.4. Upon failure of Contractor to obtain Substantial Completion and/or Final Completion within the applicable deadlines as stated in Section 3.3, or extended by any approved time extensions, Contractor shall pay to County the sums identified in the applicable Job Order for each day after the applicable deadline until Substantial Completion or Final Completion, as applicable, is obtained. These amounts are not penalties but are liquidated damages to County 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 County 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.

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

3.6. Contractor shall reimburse County, 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 County 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 County as costs are incurred by Consultant and agreed to by County.

3.7. If Contractor is performing services under a Job Order scheduled to be completed after the expiration of this Contract, Contractor agrees to continue those services until completion under the same terms and conditions of the Contract Documents.

#### **ARTICLE 4      CONTRACT SUM**

Payment(s) shall be made at the lump sum price stated in the applicable Job Order. 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 each applicable Job Order.



## 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 for approval in triplicate to Consultant or Project Manager, as indicated by the address and contact information supplied in the Purchase Order for the applicable Job Order. Each such Application for Payment shall be addressed to the attention of the Consultant or Project Manager, as applicable, named in the applicable Purchase Order.**

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 County determines to be fraudulent or misleading. If the Application for Payment does not meet the requirements of this Contract, County 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. Any dispute between County and Contractor resolved in accordance the Prompt Payment Ordinance (Section 1-51.6 of the Broward County Code of Ordinances), subject to the process and time frames for payment set forth above. For all other disputes related to payment, the dispute shall be resolved pursuant to the dispute resolution procedure set forth in Article 12 of the General Conditions.

5.2. County 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 County.

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. County 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:

5.3.1 Defective work not remedied.

5.3.2 Claims filed or reasonable evidence indicating probable filing of claims by other parties against Contractor or County 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 the applicable

Job Order, 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, County 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 Director of Purchasing, 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 any law, rule, regulation, or duty arising in law or equity applicable to Contractor. 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 County 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. Contractor represents that it has not been placed on the discriminatory vendor list as provided in Section 287.134, Florida Statutes. Contractor further represents that it is not ineligible to contract with County on any of the grounds stated in Section 287.135, 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 has registered with and uses 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 Agreement will not violate that statute. If Contractor violates this section, County may immediately terminate this Agreement for cause and Contractor shall be liable for all costs incurred by County 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 services that may be required pursuant to this Contract and that each person and entity that will provide such services is duly qualified to perform such services 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 services. Contractor represents and warrants that the services shall be performed in a skillful and respectful manner, and that the quality of all such services shall equal or exceed prevailing industry standards for the provision of such services.

7.9. Truth-In-Negotiation Representation. Contractor’s compensation under this Contract is based upon its representations to County, 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, and

any Job Order Amount(s), was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs.

7.10. Breach of Representations. In entering into this Contract, Contractor acknowledges that County is materially relying on the representations, warranties, and certifications of Contractor stated in this article. County shall be entitled to recover any damages it incurs to the extent any such representation or warranty is untrue. In addition, if any such representation, warranty, or certification is false, County shall have the right, at its sole discretion, to terminate this Contract without any further liability to Contractor, to deduct from any amounts due Contractor under this Contract the full amount of any value paid in violation of a representation or warranty, and to recover all sums paid to Contractor under this Contract. Furthermore, a false representation may result in debarment from County's procurement activities.

## 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. Similarly, the following priority of documents shall apply in the event of a conflict:

**First Priority:** Contract amendments, modifications, or addenda (later takes precedence over earlier)

**Second Priority:** BCF 170 and General Conditions

**Third Priority:** Project Manual

**Fourth Priority:** Any technical specifications contained in a Job Order, including all related documentation, including but not limited to the Detailed Scope of Work and any applicable drawings, the Job Order Proposal, and any Supplemental Job Orders;

**Fifth Priority:** Supplemental Conditions – Job Order Contract;

**Sixth Priority:** Technical Specifications and Division 01 Specification for the Applicable Department;

**Seventh Priority:** Special Instructions for Vendors;

**Eighth Priority:** Any non-technical details contained in a Job Order, including all related documentation, including but not limited to the Detailed Scope of Work and any applicable drawings, the Job Order Proposal, and any Supplemental Job Orders; and

**Ninth Priority:** Broward County-Gordian Job Order Contract Technical Specifications;

**Tenth Priority: Construction Task Catalog®.**

8.2. Independent Contractor. Contractor is an independent contractor under this Contract. Services 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 County. This Contract shall not constitute or make the Parties a partnership or joint venture.

8.3. Third-Party Beneficiaries. Neither Contractor nor County intends to directly or substantially benefit a third party by entering into this Contract. Therefore, the Parties agree that 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. All notices to be given hereunder shall be in writing, and may be given by United States Mail, postage prepaid, return receipt requested; by commercial express carrier with acknowledgment of delivery; or by hand delivery, addressed to the party to be notified at the last place specified, each of the foregoing with a simultaneous copy sent via electronic mail. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the Parties designate the following as the respective places for giving of notice:

For County:  
Scott Campbell, Director  
Broward County Facilities Management Division  
115 S Andrews Avenue  
Fort Lauderdale, FL 33301  
E-mail: SCAMPBELL@broward.org

For Contractor:  
Luis E. Enriquez  
LEE Construction Group, Inc.  
9485 NW 12 Street  
Doral, FL 33172  
E-Mail: leenriquez@leecgi.com

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.



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 hereof.

8.7. No Waiver. County'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. In the event 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. **BY ENTERING INTO THIS CONTRACT, CONTRACTOR AND COUNTY HEREBY EACH EXPRESSLY WAIVE ANY RIGHTS THAT EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS CONTRACT. IF A PARTY FAILS TO WITHDRAW A REQUEST FOR A JURY TRIAL IN A LAWSUIT ARISING OUT OF THIS CONTRACT AFTER WRITTEN NOTICE BY THE OTHER PARTY OF VIOLATION OF THIS SECTION, THE PARTY MAKING THE REQUEST FOR JURY TRIAL SHALL BE LIABLE FOR THE REASONABLE ATTORNEYS' FEES AND COSTS OF THE OTHER PARTY IN CONTESTING THE REQUEST FOR JURY TRIAL, AND SUCH AMOUNTS SHALL BE AWARDED BY THE COURT IN ADJUDICATING THE MOTION. CONTRACTOR, PURSUANT TO ARTICLE 28 OF THE GENERAL CONDITIONS, SHALL SPECIFICALLY BIND ALL SUBCONTRACTORS TO THE PROVISIONS OF THIS SECTION.**

8.10. Amendments. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Contract and executed by Contractor and the Board or another person to whom appropriate authority has been delegated or who is otherwise authorized to execute same.

8.11. Prior Contracts. The Contract is the final and complete understanding of the Parties regarding the subject matter hereof and supersedes all prior and contemporaneous negotiations and discussions regarding that subject matter. There is no commitment, agreement or understanding concerning the subject matter of this Contract that is not contained in this Contract or the Contract Documents.

8.12. Compliance with Laws. Contractor must comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations including, without limitation, the Americans with Disabilities Act, 42 U.S.C. § 12101, Section 504 of the Rehabilitation Act of 1973, and any related federal, state, or local laws, rules, and regulations in the course of providing any services funded by County.

8.13. 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 County 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 conclusion 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.

8.14. Additional Security Requirements. Contractor certifies and represents that it will comply with the Security Requirements, Aviation Security Requirements, and Port Everglades Security Requirements, attached hereto and incorporated herein as Attachment A.

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,” “hereof,” “hereunder,” and “hereinafter” 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 all of the subsections of such section, 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.

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IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement:  
Broward County, through its Director of Purchasing, authorized to execute same pursuant to  
Section 21.46, Procurement Code, and LEE Construction Group, Inc., signing by and through its  
President, duly authorized to execute same.

**WITNESS:**

LUCY GARCIA

Digitally signed by LUCY  
GARCIA  
Date: 2021.01.22 15:44:56  
-05'00'

**Signature of Witness**

Lucy Garcia

**Print Name of Witness**

SHANDREKA  
LOPEZ

Digitally signed by SHANDREKA  
LOPEZ  
Date: 2021.01.22 16:10:49 -05'00'

**Signature of Witness**

Shandreka Lopez

**Print Name of Witness**

**COUNTY**

**BROWARD COUNTY, by and through  
its Director of Purchasing**

BRENDA  
By BILLINGSLEY

Digitally signed by BRENDA  
BILLINGSLEY  
Date: 2021.01.21 20:30:14 -05'00'

**Brenda Billingsley**

21 day of January 2021

**Approved as to form by  
Andrew J. Meyers  
Broward County Attorney  
Governmental Center, Suite 423  
115 South Andrews Avenue  
Fort Lauderdale, Florida 33301  
Telephone: (954) 357-7600**

Matthew Haber

Digitally signed by Matthew  
Haber  
Date: 2021.01.06 10:25:25 -05'00'

By: \_\_\_\_\_  
**Matthew Haber (Date)  
Assistant County Attorney**

MICHAEL KERR

Digitally signed by MICHAEL  
KERR  
Date: 2021.01.06 10:43:10 -05'00'

By: \_\_\_\_\_  
**Michael J. Kerr (Date)  
Deputy County Attorney**

CONTRACTOR MUST EXECUTE THIS CONTRACT AS INDICATED BELOW. USE CORPORATION OR NONCORPORATION FORMAT, AS APPLICABLE.

Contractor

ATTEST:

Irene M. Amaro  
Secretary

Irene M. Amaro - Notary Public

(Print/Type Name)

(Corporate Seal)

LEE Construction Group, Inc.

(Name of Corporation)

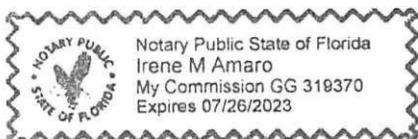
By: [Signature]  
President/Vice President

Luis E. Enriquez - President

(Print/Type Name)

22nd day of December, 20 20.

COUNTY REQUIRES FOUR (4) FULLY-EXECUTED CONTRACTS, FOR DISTRIBUTION.



## **CONTRACT SUPPLEMENT**

[This section is reserved.]

## **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 County at the cost of reproduction.

### **ARTICLE 2 INTENTION OF COUNTY**

County intends to describe in this Contract a framework to govern the issuance of any Job Order(s), each for a functionally complete Project (or part thereof) to be constructed in accordance with this Contract, and applicable Job Order, and in accordance with all codes and regulations governing construction of any such Project(s). 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 this Contract. Contractor shall comply with such specifications, manuals, codes, laws, or regulations. County 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 (unless otherwise instructed in the applicable Job Order):

- ☒ Bar Chart
- ☐ Modified Critical Path Method ("CPM")
- ☐ CPM
- ☐ 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 or Job Order Amount, where applicable, and that subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during construction. Such prices will include a breakdown of labor, equipment, materials, and an appropriate amount of overhead and profit applicable to each item of Work, which amounts Contractor must confirm in writing at the time of submission.

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 County 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 from the Project Initiation Date set forth in the applicable Job Order, 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 Job Order Completion Time, but such acceptance shall not constitute acceptance by County 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 County responsibility for the progress or scheduling of the Work, nor relieve Contractor from full responsibility therefore. 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 by the County, 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 fifty percent (50%) of the potential contract amount, for the initial term of this Contract for contracts with CBE participation goals and SBE reserve contracts, and twenty-five percent (25%) for CBE reserve contracts, as those amounts and terms are defined in Section A-8 of the Special Instructions for Vendors and Section 3.1 of the Contract respectively, guaranteeing to County the completion and performance of the Work covered in such Job Order as well as full payment of all suppliers, laborers, and Subcontractors employed pursuant to the Project. Each Bond shall be with a surety company that is qualified pursuant to Article 5.

4.2. Each Bond shall continue in effect for one (1) year after Final Completion and acceptance of the Work with liability equal to fifty percent (50%) of the potential contract amount for the initial term of this Contract, or an additional bond shall be provided to ensure that Contractor will, upon notification by County, correct any defective or faulty work or materials that appear within one (1) year after Final Completion of this Contract.

4.3. 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 County with evidence of such recording.

4.4. 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 County and for the same purpose, and shall be subject to the same conditions as those applicable above, and shall be held by County for one (1) year after completion and acceptance of the Work.

4.5. As required by the Special Instructions for Vendors, additional Performance Bond and Payment Bonds, or an increase of existing bonds, shall be provided by the Contractor in an amount of no less than \$500,000 for contracts awarded for Open Market/CBE Goals and \$250,000 for contracts awarded for CBE Reserves, once the Contractor's amount of job orders have reached the bonding amount.

## **ARTICLE 5      QUALIFICATION OF SURETY**

5.1. For all Bid Bonds, Performance Bonds, and Payment Bonds over \$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 County with evidence satisfactory to County that such excess risk has been protected in an acceptable manner.

5.1.3. A surety company that is rejected by County may be substituted by the Bidder or proposer with a surety company acceptable to County, 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 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>

5.2. For projects that do not exceed \$500,000.00, County 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 County 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 County Attorney, any sums due Contractor under this Contract may be retained by County until all of County'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 County. These indemnifications shall survive the term of this Contract.

## **ARTICLE 7 INSURANCE REQUIREMENTS**

7.1. The specific insurance coverage requirements for this Contract are identified in the Minimum Insurance Requirements Exhibit 1, which is a part of the Contract Documents. For purposes of this article, the term "County" shall include Broward County and its members, officials, officers, and employees.

7.2. 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 minimum insurance requirements stated in Exhibit 1, County shall be entitled to any such broader coverage and higher limits maintained by Contractor. County reserves the right at any time to review and adjust the limits and types of coverage required under this article. Contractor shall add County as an additional insured on all insurance coverage required by the Contract Documents.

7.3. 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 County as an additional insured, and shall not require contribution from any County insurance, self-insurance or otherwise. All insurance held by County, as well as County's self-insurance, shall be in excess of and shall not contribute to the 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 County, 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.

7.4. Contractor shall ensure that all required insurance policies are issued by insurers: (1) assigned an A. M. 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 County's Risk Management Division.

7.5. Contractor shall declare in writing any self-insured retentions or deductibles over the limit(s) prescribed in Exhibit 1, and shall submit same to County, at least fifteen (15) days prior to the effective date of the Contract or commencement of the Work for County'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 County. County 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 County, if so elected by County, and Contractor agrees to obtain same in endorsements to the required policies.

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

7.6.1. 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. County and Consultant 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).

7.6.2. Contractor shall maintain products or completed work coverage for a minimum of (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.

7.6.3. 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. County

and Consultant shall be included on the policy (and any excess or umbrella policy) as "Additional Insureds."

7.6.4. 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 County 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 County scheduled thereon. Where appropriate, coverage shall be included for any applicable Federal or State employer's liability laws including, but not limited to, the Federal Employer's Liability Act, the Jones Act, and the Longshoreman and Harbor Workers' Compensation Act.

In the event that 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 County against injuries to uninsured employees of Subcontractors and non-enrolled employees of Contractor, Contractor must still procure, maintain, and furnish County 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.

7.6.5. 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.

7.6.6. 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.

7.6.7. 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 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.

**7.6.8. Property Insurance, Builder's Risk, or Installation Floater.** Such insurance shall be in force and evidenced to County 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 (5%) of the "values at risk at the time of loss" unless otherwise approved by County.

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 County.

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 County.

County reserves the right to purchase or provide property insurance covering the materials, equipment and supplies that are intended for specific installation in the applicable 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 County elects to purchase property insurance or provide for coverage under its existing insurance for the applicable Project, then in that case, the insurance required to be carried by Contractor may be modified to account for the insurance being provided by County, at County's discretion. Such modification may also include execution of Waiver of Subrogation documentation. In the event that a claim with respect to the applicable Project is made upon County's insurance policy, Contractor shall be responsible

for up to the first Fifty Thousand Dollars (\$50,000) of the deductible amount for such claim.

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

7.8. Contractor shall ensure that all insurance coverages required by this article shall remain in full force and effect 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 County 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 County with a copy of its updated Certificates of Insurance evidencing continuation of the required coverage(s). Contractor shall ensure that there is no lapse of coverage at any time during the time period for which coverage is required by this article.

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

7.10. Contractor shall ensure that "Broward County, 115 S. Andrews Avenue, Fort Lauderdale, Florida 33301" and Consultant are listed as additional insureds on all policies required under this article. Broward County shall be listed as Certificate Holder.

7.11. 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 "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, County 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 County, Contractor shall provide, within one (1) business day, evidence of each Subcontractor's compliance with this section.

7.12. 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 1; 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 1.

## **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 an applicable Job Order Completion Time for delays caused by the effects of inclement weather shall be submitted as a request for a change in the Job Order Completion 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 permits and licenses required by federal, state, or local laws, rules, and regulations necessary for the Work. 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. Contractor shall pay all impact fees levied by any municipality. Contractor shall be reimbursed only for the actual amount of the impact fee levied by the municipality as evidenced by an invoice or other acceptable documentation issued by the municipality. Reimbursement to Contractor shall not include profit or overhead of Contractor.

## **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. In the event 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 Job Order Completion Time or Job Order Amount 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 JOB ORDER COMPLETION TIME AND JOB ORDER AMOUNT 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 County 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, any laws, ordinances, or any public authority 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 County, 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, County 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. County'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 County, 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 County 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 COUNTY'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 with respect to this Contract or any Job Order issued under this Contract, 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 County'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 for cause the Contract and/or the applicable Job Order and, with respect to the applicable Job Order, 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, County 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 County, together with the costs of completing the Project, shall be deducted from any monies due or which may become due to Contractor. In the event the damages and expenses so incurred by County shall exceed the unpaid balance, Contractor shall be liable and shall pay to County the amount of said excess.

15.3. If County erroneously, improperly, or unjustifiably terminates for cause this Contract, or any Job Order issued under this Contract, such termination shall be deemed a termination for convenience and the rights and obligations of County 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, or any Job Order issued under this Contract, may be terminated for convenience, for any reason or no reason, in writing by the Board 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. Unless otherwise stated in this Contract, if this Contract was approved by Board action, termination for cause by County must be approved by the Board or effected by action of the County Administrator; in all other instances termination of this Contract, or any Job Order issued under this Contract, for cause may be effected by the County Administrator, the County representative expressly authorized under this Contract or the applicable Job Order, or the County representative (including any successor) who executed the Contract or applicable Job Order on behalf of County. 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 County's right to terminate this Agreement for convenience in the form of County'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, 15.6, or 15.7, Contractor shall promptly discontinue all affected Work unless the notice of termination directs otherwise, and shall deliver or otherwise make available to County 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, or any Job Order issued under 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 Director of the OESBD 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 Director of the OESBD 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 Director of the OESBD 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 Director of the OESBD 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 Section 215.473, Florida Statutes, if Contractor is placed on a "discriminatory vendor list" pursuant to Section 287.134, Florida Statutes, or if Contractor provides a false certification submitted pursuant to Section 287.135, Florida Statutes.

15.7. The continuation of this Contract beyond the end of any County fiscal year is subject to both the appropriation and the availability of funds in accordance with Chapter 129, Florida Statutes. In the event funds for this Contract are not made available or otherwise allocated, the Contract Administrator may terminate this contract upon thirty (30) days written notice to Contractor (delivered by certified mail, return receipt requested).

## **ARTICLE 16   SUSPENSION OF WORK**

Contractor shall carry on the Work and adhere to the progress schedule during all disputes or disagreements with County. No Work shall be delayed or postponed pending resolution of any disputes or disagreements except as Contractor and County may otherwise agree in writing. Suspension of Work by Contractor during any dispute or disagreement with County shall entitle County 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 County inspection and subject to audit and reproduction during normal business hours. County audits and inspections pursuant to this article may be performed by any County representative (including any outside representative engaged by County). County may conduct audits or inspections at any time during the term of this Contract and for a period of three years after the expiration or termination of this Contract (or longer if required by law). County may, without limitation, verify information, payroll distribution, and amounts through interviews, written affirmations, and on-site inspection with Contractor's employees, Subcontractors, vendors, or other labor.

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

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, Subconsultants, or Subcontractors, or otherwise necessary to adequately permit evaluation and verification of any or all of the following:

- a) Compliance with Job Order(s)
- b) Compliance with Contract
- c) Compliance with County's code of ethics
- d) Compliance with Contract provisions regarding the pricing of Change Orders
- e) Accuracy of Contractor representations regarding the pricing of invoices
- f) 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 County, in order to facilitate efficient use of County 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

17.3 Contractor shall, by written contract, require its Subcontractors to agree to the requirements and obligations of this article.

17.4 Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for County's disallowance and recovery of any payment reliant upon such entry.

17.5 If an audit inspection or examination in accordance with this article discloses overpricing or overcharges to County of any nature by Contractor or its Subcontractors in excess of five percent (5%) of the total contract billings reviewed by County, the reasonable actual cost of County's audit shall be reimbursed to County by Contractor, and Contractor shall make downward adjustments to eliminate the overcharges. Any adjustments or payments due as a result of any such audit or inspection shall be made within thirty (30) days from presentation of County's findings to Contractor.

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

Whenever work being done by County'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 County 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 Job Order Amount, or the Job Order Completion Time, or both. If Contract Administrator and Contractor cannot agree on an adjustment in the Job Order Amount or Job Order Completion 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 Job Order Amount or Job Order Completion 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

County, 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 County, 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. In the event any such Materials, equipment or supplies are lost, stolen, damaged, or destroyed prior to final acceptance by County, Contractor shall replace same without cost to County, except as provided in Article 30.

## **ARTICLE 24 WARRANTY**

Contractor warrants to County 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, County 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 County in making such removals, corrections, or repairs, shall, at County'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, County 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 County, shall promptly correct such defective or nonconforming Work within the time specified by County, without cost to County. 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 County to final acceptance.

## **ARTICLE 27 TAXES**

Contractor shall pay all applicable sales, consumer, use, and other taxes required by 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 law. Contractor shall notify the Contract Administrator and Consultant of any change in Subcontractors.

28.2. Contractor shall not employ any Subcontractor against whom County 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 County or any obligation on the part of County to pay or to see the payment of any monies due any Subcontractor. County 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 County.

28.5. ☐ Contractor shall perform the Work with its own organization, amounting to not less than \_\_\_\_\_ percent of the Contract Price.

## **ARTICLE 29 SEPARATE CONTRACTS**

29.1. County has the right to enter into contracts with other parties in connection with the applicable 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 County 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. County has the right at its sole option to take possession of and use any completed or partially completed portions of any applicable Project(s) ("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 increases 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 County.

30.2. In the event County decides to take possession of any completed or partially completed portions of the Project, the following shall occur:



30.2.1. County shall give notice to Contractor in writing at least thirty (30) days prior to County'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, County will assume full responsibility for maintenance, utilities, subsequent damages of County 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 County 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 County 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. County 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 County for the use of Contractor.

31.2. Contractor shall obtain, at Contractor's own expense and without liability to County, 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 County 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 laws, regulations, or ordinances 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, County 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. County reserves the right to remedy such damage by making such repairs or causing such repairs to be made at the expense of Contractor. County'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 an applicable Job Order Amount 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 Job Order Amount or Job Order Completion 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 Job Order Amount including

Consultant review fees and charges. If a substitution is approved, the net dollar savings shall be shared equally between Contractor and County and shall be processed as a deductive Change Order. County 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 COUNTY FOR TESTS**

Except when otherwise specified in this Contract, the expense of all tests requested by Consultant shall be borne by County and performed by a testing firm chosen by County. For road construction projects, the procedure for making tests required by County will be in conformance with the most recent edition of the State of Florida, Department of Transportation Standard Specifications for Road and Bridge Construction. Contractor is responsible for the cost of any required test in which the tested Work fails.

#### **ARTICLE 36     CHANGE IN THE WORK OR TERMS OF CONTRACT**

36.1. Without invalidating this Contract and without notice to any surety, County 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 County to fully and acceptably complete the proposed Work in a satisfactory manner. Any extra or additional Work within the scope of the Job Order 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 County, 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, any applicable Job Order(s), and ordering minor changes in the Work. Field Orders may not change the Job Order Amount or the Job Order Completion 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, any applicable Job Order(s), or performance of the Work. Supplemental Instructions may not change the Job Order Amount or the Job Order Completion 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 Job Order Amount or the Job Order Completion Time, shall be authorized only by Change Orders approved in advance and issued in accordance with the

provisions of the Broward County Procurement Code, as amended from time to time, and the JOC Supplemental Conditions.

38.2. Contractor shall not start work on any changes requiring an increase in the Job Order Amount or the Job Order Completion Time until a Change Order setting forth the adjustments is approved in writing by County. Upon receiving written approval for a Change Order, Contractor shall promptly proceed with the Work set forth in the Change Order.

38.3. In the event satisfactory adjustment cannot be reached for any item requiring a change in the Job Order Amount(s) or Job Order Completion Time(s), and a Change Order has not been issued, County may, at its sole option, either terminate this Contract and/or the applicable Job Order(s) as the Contract and/or the applicable Job Order(s) apply(ies) to the items in question and make such arrangements as County 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 County, Change Orders may be issued unilaterally by County. During the pendency of the dispute, and upon receipt of a Change Order from County, 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 Job Order Amount or Job Order Completion Time.

#### **ARTICLE 39    VALUE OF CHANGE ORDER WORK**

39.1. The County, without invalidating the Job Order, may order changes to Work by adding to, changing, or deleting from the Work associated with the applicable Job Order, by issuing a Field Order or Change Order/Supplemental Job Order.

39.2. The value of any Work covered by a Field Order, Change Order/Supplemental Job Order, or of any claim for an increase or a decrease in the applicable Job Order Amount shall be determined and priced in accordance with the section of the JOC Project Manual entitled, "Developing a Job Order."

39.3. In accordance with the provisions of this Contract, above, a Field Order may not be issued for any change to the Work that alters the Job Order Amount or Job Order Completion Time. Changes to the Work altering the Job Order Amount or Job Order Completion Time for an applicable Job Order may be accomplished by County's issuance of a Change Order/Supplemental Job Order.

#### **ARTICLE 40    NOTIFICATION AND CLAIM FOR CHANGE OF JOB ORDER COMPLETION TIME OR JOB ORDER AMOUNT**

40.1 Any claim for a change in the Job Order Completion Time or Job Order Amount 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 Job Order Completion Time or Job Order Amount 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 Article 12 hereof. **IT IS EXPRESSLY AND SPECIFICALLY AGREED THAT ANY AND ALL CLAIMS FOR CHANGES TO THE JOB ORDER COMPLETION TIME OR JOB ORDER AMOUNT SHALL BE WAIVED IF NOT SUBMITTED IN STRICT ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION.**

40.2 The Job Order Completion 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 therefore 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 County, 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 County by reason of any delays except as provided herein. Contractor shall not be entitled to an increase in the Contract Price or Job Order Amount or payment or compensation of any kind from County 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 Job Order Completion 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 County 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 Job Order Completion 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 Job Order Completion 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 County or its agents. In no event shall Contractor be compensated for interim delays that do not extend the Job Order Completion 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.

County 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 Job Order Completion 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 a sum identified in the applicable Job Order per day for each day the Work 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) is caused by circumstances beyond the control of County or Consultant; or (iii) is caused jointly or concurrently by Contractor or its Subcontractors, suppliers or vendors and by County 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 County 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 County 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 Job Order Completion 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 and any applicable Job Order(s). Warranties required by this Contract shall commence on any date(s) of Substantial Completion of the Work or designated portion thereof unless otherwise provided in a Certificate(s) of Substantial Completion. A 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 County shall not be liable to pay any interest to Contractor for any reason, whether as prejudgment interest or for any other purpose, and in furtherance thereof Contractor waives, rejects, disclaims and surrenders any and all entitlement it has or may have to receive interest in connection with a dispute or claim arising from, related to, or in connection with this Contract. This section shall not apply to any claim for interest, including for post-judgment interest, if such application would be contrary to applicable law.

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 County 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 transit a letter of approval to Consultant and County.

45.5 If the Shop Drawings show or indicate departures from the Contract requirements, Contractor shall specify such departures make specific mention thereof in its letter of transmittal to Consultant and County. 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 from 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 County 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 laws, ordinances, rules, regulations, and orders 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 County 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 County.

#### **ARTICLE 48 FINAL BILL OF MATERIALS**

Contractor shall be required to submit to County 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 Job Order 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; COUNTY'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, County may do so and the cost thereof shall be charged to Contractor. If a dispute arises between Contractor and separate contractors of County as to their responsibility for cleaning up, County 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 County, 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 County 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 County has directed such suspension, will entitle Contractor to additional Job Order Completion 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 or a Job Order issued under this Contract before completion of the Work for any cause whatsoever, Contractor, if notified to do so by County,

shall promptly remove any part or all of Contractor's equipment and supplies from the property of County, failing which County 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, Contractor certifies and represents that it will comply with the provisions of Section 16½-157 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 County 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 County.

#### **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. Parts 23 and 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 County to terminate this Contract or any Job Order issued under 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 The required CBE or SBE goal pursuant to this Contract is as follows:\*

☒ Contractor will meet the required CBE goal by utilizing CBE firms for thirty percent (30%) of the total cumulative services to be provided by Contractor under this Contract (the "Commitment").

☐ The Parties acknowledge that County has reserved this procurement solely for performance by CBE firms; therefore the CBE goal is one hundred percent (100%) of the total cumulative services to be provided by Contractor under this Contract (the "Commitment"). Contractor is a CBE firm and agrees that it will meet the Commitment by Contractor performing the services without subcontracting.

☐ The Parties acknowledge that County has reserved this procurement solely for performance by an SBE firm; therefore the SBE goal is one hundred percent (100%) of the total cumulative services to be provided by Contractor under this Contract (the "Commitment"). Contractor is an SBE firm and agrees that it will meet the Commitment by Contractor performing the services without subcontracting.

**\*Note:** Only the provision corresponding to the checked box in this Section 54.3 will apply to this Contract.

54.4 As applicable based on the required CBE or SBE goal pursuant to this Contract provided in Section 54.3 above, in performing a Job Order issued under this Contract, Contractor shall utilize the CBE or SBE firm(s) identified in a Letter(s) of Intent corresponding to the Job Order for the scope of work and the percentage of work amounts identified on such Letter(s) of Intent. Promptly upon issuance of a Job Order under this Contract by County, Contractor shall enter into formal contracts with the CBE or SBE firm(s) listed in the corresponding Letter(s) of Intent and, upon request, shall provide copies of the contracts to the Contract Administrator and OESBD.

54.5 Each CBE or SBE firm utilized by Contractor to meet the CBE or SBE goal, as applicable, must be certified by OESBD. Contractor shall inform County 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 County, 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 County's prior written consent, which consent shall not be unreasonably withheld.

54.6 The Parties stipulate that if Contractor fails to meet the Commitment, the damages to County 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 County 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 County, such liquidated damages amount shall be either credited against any amounts due from County, or must be paid to County within thirty (30) days after written demand. These liquidated damages shall be County'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 County, 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.

54.7 Contractor acknowledges that the Board, acting through 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 County in writing if Contractor concludes that the modification exceeds the authority under this section. Failure of Contractor to timely notify County of its conclusion that the modification exceeds such authority shall be deemed acceptance of the modification by Contractor.

54.8 County may modify the Commitment in connection with any amendment, extension, modification, Change Order, or Job Order to this Contract that, by itself or aggregated with previous amendments, extensions, modifications, Change Orders, or Job Orders, increases the potential contract amount, for the initial term of this Contract, as those amounts and terms are defined in Section A-8 of the Special Instructions for Vendors and Section 3.1 of the Contract respectively, 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 Job Order, and shall report such efforts, along with evidence thereof, to OESBD.

54.9 Contractor shall provide written monthly reports to the Contract Administrator attesting to Contractor's compliance with the Commitment. In addition, Contractor shall allow County 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 in conjunction with OESBD shall perform such review and monitoring, unless otherwise determined by the County Administrator.

54.10 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 County or its representatives from inquiring into allegations of nonpayment.

## **ARTICLE 55 PUBLIC RECORDS**

To the extent Contactor is acting on behalf of County as provided in Section 119.0701, Florida Statutes, Contactor shall:

55.1.1 Keep and maintain public records required by County to perform the services under this Contract;



55.1.2 Upon request from County, provide County 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 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 law for the duration of this Contract and following completion or termination of this Contract if the records are not transferred to County; and

55.1.4 Upon completion or termination of this Contract, transfer to County, at no cost, all public records in possession of Contractor or keep and maintain public records required by County to perform the services. If Contractor transfers the records to County, 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 County upon request in a format that is compatible with the information technology systems of County.

The failure of Contractor to comply with the provisions of this article shall constitute a material breach of this Contract entitling County 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 County, who will be responsible for responding to any such public records requests. Contractor will provide any requested records to County to enable County to respond to the public records request.

Any material submitted to County 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 812.081 and stating the factual basis for same. In the event a third party submits a request to County for records designated by Contractor as Trade Secret Materials, County 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 County 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) 357-7935, WDAHLGREN@BROWARD.ORG, 115 S. ANDREWS AVE., SUITE 501, FORT LAUDERDALE, FLORIDA 33301.**

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

## **SUPPLEMENTAL GENERAL CONDITIONS**

[This section is reserved.]

### SUPPLEMENTAL WAGE REQUIREMENTS

1. ☒ Prevailing Wage Rate Ordinance - 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.
  - 1.1. 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.
  - 1.2. 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.
  - 1.3. 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 County Administrator for final determination, which shall be binding.
  - 1.4. 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 County for any all costs incurred by County to complete such Work to the extent such costs exceed any amounts that Contractor would be due for performance of such Work.
  - 1.5. 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.
  - 1.6. 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.
  - 1.7. 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.

1.8. 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.

**FORM 1: PERFORMANCE BOND**

Project Name: Job Order Contract (JOC) Step 2 (Aviation Non-Sheltered Market)  
Project Number: PNC2119543C1

BY THIS BOND, We \_\_\_\_\_, as Principal, hereinafter called Contractor, and \_\_\_\_\_, as Surety, under the assigned Bond Number \_\_\_\_\_, are bound to Broward County, Florida, as Obligee, hereinafter called 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 County, 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 County for construction of \_\_\_\_\_, in the time and manner prescribed in the Contract; and
- 2) Pays County all losses, liquidated damages, expenses, costs and attorneys' fees including appellate proceedings, that 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 County to be, in default under the Contract, with County 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 County elects, upon determination by County and Surety jointly of the lowest responsible Bidder, arrange for a contract between such Bidder and County on the same terms and conditions as the Contract Documents unless otherwise agreed by 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 County to Contractor under the Contract and any amendments thereto, less the amount properly paid by County to Contractor.

No right of action shall accrue on this bond to or for the use of any person or corporation other than Broward 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

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

By: \_\_\_\_\_  
Authorized Signor

\_\_\_\_\_  
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.: \_\_\_\_\_

## FORM 2: PAYMENT BOND

Project Name: Job Order Contract (JOC) Step 2 (Aviation Non-Sheltered Market)  
Project Number: PNC2119543C1

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 Broward County, Florida (hereinafter "County"), as Obligee, 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 County for construction of \_\_\_\_\_ 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 County all losses, damages, expenses, costs and attorneys' fees including appellate proceedings, that 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

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

By: \_\_\_\_\_  
Authorized Signor

\_\_\_\_\_  
Print Name and Title

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

(CORPORATE SEAL OR NOTARY)

IN THE PRESENCE OF:

SURETY:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
(Print Name)

By \_\_\_\_\_  
Agent and Attorney-in-Fact

\_\_\_\_\_  
(Print/Type Name)

Address: \_\_\_\_\_  
(Street)

\_\_\_\_\_  
(City/State/Zip Code)

Telephone No.: \_\_\_\_\_

**FORM 3: CERTIFICATE AS TO CORPORATE PRINCIPAL**

I, \_\_\_\_\_, certify that I am the Secretary of the corporation named as Principal in the foregoing Performance and Payment Bonds; that \_\_\_\_\_, who signed the Bond(s) on behalf of the Principal, was then \_\_\_\_\_ of said corporation; that I know his/her signature; that his/her signature thereto is genuine; and that said Bond(s) was (were) duly signed, sealed and attested to on behalf of said corporation by authority of its governing body.

(Seal) as Secretary of

(Name of Corporation)

(SEAL)

STATE OF \_\_\_\_\_ )  
 ) SS.  
COUNTY OF \_\_\_\_\_ )

Before me, a Notary Public duly commissioned, qualified and acting, personally appeared \_\_\_\_\_, who sworn upon oath acknowledged that he/she is authorized to execute the foregoing Performance and Payment Bond on behalf of Contractor named therein in favor of County.

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

My commission expires:

Notary Public, State of Florida at Large

Bonded by

**FORM 4: FORM OF CERTIFICATE AND AFFIDAVIT FOR BONDS \$500,000.00 OR LESS**

TO: BROWARD COUNTY

RE: Job Order Contract (JOC) Step 2 (Aviation Non-Sheltered Market)

BID NUMBER: PNC2119543C1

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)*

AFFIDAVIT

STATE OF \_\_\_\_\_ )  
 ) SS.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, Agent and Attorney-in-Fact of \_\_\_\_\_, 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, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(NOTARY SEAL)

\_\_\_\_\_  
(Signature of person taking acknowledgment)

\_\_\_\_\_  
(Name of officer taking acknowledgment)

\_\_\_\_\_  
(Title or rank)

\_\_\_\_\_  
(Serial number, if any)

My commission expires:

**FORM 5: UNCONDITIONAL LETTER OF CREDIT (PERFORMANCE AND PAYMENT GUARANTY)  
FORM**

UNCONDITIONAL LETTER OF CREDIT

**Beneficiary:**

Broward County,  
County Administrator  
Governmental Center, Room 409  
115 South Andrews Avenue  
Fort Lauderdale, FL 33301

Date of Issue \_\_\_\_\_

Issuing Bank's No. \_\_\_\_\_

Applicant: \_\_\_\_\_

Amount: \_\_\_\_\_

(in United States Funds)

Expiry: \_\_\_\_\_

(Date)

Bid/Contract Number PNC2119543C1

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 County  
Administrator of Broward County, or the County Administrator'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 Broward County and \_\_\_\_\_ (Contractor, Applicant,  
Customer) pursuant to the Bid/Contract No. \_\_\_\_\_ for \_\_\_\_\_ (Name of 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 Broward County Administrator 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  
Broward County 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

FORM 6: MONTHLY (CBE/SBE) UTILIZATION REPORT



MONTHLY (CBE) UTILIZATION REPORT

Report No. \_\_\_\_\_

Contract #:	Contract Amount:	Date Form Submitted:
Project Description:	Project Completion Date:	
Prime Contractor:	Period Ending:	Amt. Paid to Prime:
Contact Person:	Telephone#: (    )	Fax#: (    )

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
Total Amount Paid to Subcontractors to Date:						

I certify that the information submitted in this report is in fact true and correct to the best of my knowledge

Signature:	Title:	Date:
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Note: The information provided herein is subject to verification by the Office of Economic and Small Business Development.

OESBD Compliance Form 2009-MUR



FORM 7: FINAL (CBE/SBE) UTILIZATION REPORT



FINAL (CBE) UTILIZATION REPORT

Report No. \_\_\_\_\_

Contract #:	Contract Amount:	Date Form Submitted:
Project Description:	Project Completion Date:	
Prime Contractor:	Period Ending:	Amt. Paid to Prime:
Contact Person:	Telephone#: (    )	Fax#: (    )

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
Total Amount Paid to Subcontractors to Date:							

I certify that the information submitted in this report is in fact true and correct to the best of my knowledge

Signature:	Title:	Date:
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Note: The information provided herein is subject to verification by the Office of Economic and Small Business Development.

OESBD Compliance Form 2009-MUR-F



**FORM 9: CERTIFICATION OF PAYMENTS TO SUBCONTRACTORS**

Contract No.: PNC2119543C1

Contract Title: Job Order Contract (JOC) Step 2 (Aviation Non-Sheltered Market)

Job Order No.: \_\_\_\_\_

Job Order Title: \_\_\_\_\_

The undersigned Contractor hereby swears under penalty of perjury that:

1. Contractor has paid all subcontractors all undisputed contract obligations for labor, services, or materials provided on this Job Order within the time period set forth in Section 218.735, Florida Statutes.
2. The following subcontractors have not been paid because of disputed contractual obligations; a copy of the notification sent to each, explaining the good cause why payment has not been made, is attached to this form:

Subcontractor Name and Address	Date of disputed invoice	Amount in dispute
_____	_____	_____
_____	_____	_____
_____	_____	_____

Dated \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Contractor

By \_\_\_\_\_  
(Signature)

By \_\_\_\_\_  
(Name and Title)

(Continued)

**FORM 9: CERTIFICATION OF PAYMENTS TO SUBCONTRACTORS (Continued)**

STATE OF \_\_\_\_\_ )  
 ) SS.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me, by means of ☐ physical presence or ☐ online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 2020, 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, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(NOTARY SEAL)

\_\_\_\_\_  
(Signature of person taking acknowledgment)

\_\_\_\_\_  
(Print Name of officer taking acknowledgment)

\_\_\_\_\_  
(Title or rank)

My commission expires:

\_\_\_\_\_  
(Serial number, if any)

### FORM 10: CERTIFICATE OF SUBSTANTIAL COMPLETION

Date of Issuance: \_\_\_\_\_  
Notice to Proceed Date: \_\_\_\_\_  
Name of Contractor: \_\_\_\_\_  
Contract No.: \_\_\_\_\_  
Job Order No.: \_\_\_\_\_  
Job Order Title: \_\_\_\_\_  
Job Order Address: \_\_\_\_\_  
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/Job Order or portion thereof designated above is recommended as:

#### DEFINITION OF DATE OF SUBSTANTIAL COMPLETION

**Substantial Completion:** That date, as certified in writing by the Contract Administrator in its sole discretion, 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 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 or the date thereof are not to be determinative of the achievement or date of Substantial Completion.

(Continued)

**FORM 10: CERTIFICATE OF SUBSTANTIAL COMPLETION (Continued)**

A list of items to be completed or corrected, prepared and approved by County 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.

Contractor will complete or correct the work on the list of items attached hereto within \_\_\_\_\_ calendar days from the above Date of Substantial Completion.

The County, through the Contract Administrator, has determined the Work or portion thereof designated by County is substantially complete and will assume full possession thereof at

\_\_\_\_\_ on \_\_\_\_\_, 20\_\_\_\_.  
(Time) (Date)

BROWARD COUNTY BOARD \_\_\_\_\_  
OF COUNTY COMMISSIONERS (By Contract Administrator)

\_\_\_\_\_, 20\_\_\_\_  
(Date)

The responsibilities of County and Contractor for security, maintenance, heat, utilities, damage to the work and insurance shall be as follows (see attachment provided by Contractor):

**FORM 11: FINAL CERTIFICATE OF PAYMENT**

Date of Issuance: \_\_\_\_\_  
Notice to Proceed Date: \_\_\_\_\_  
Name of Contractor: \_\_\_\_\_  
Contract No.: \_\_\_\_\_  
Job Order No.: \_\_\_\_\_  
Job Order Title: \_\_\_\_\_  
Job Order Address: \_\_\_\_\_

All condition of requirements of any permits or regulatory agencies have been satisfied. The work and the documents required by the Contract Documents have been reviewed and the undersigned certifies that the work, including minor corrective work, has been completed in accordance with the provisions of the Contract Documents and is accepted under the terms and conditions thereof.

The County, through the Contract Administrator, accepts the work as fully complete and will assume full possession thereof at \_\_\_\_\_ on \_\_\_\_\_, 20\_\_\_\_.  
(Time) (Date)

BROWARD COUNTY BOARD \_\_\_\_\_  
OF COUNTY COMMISSIONERS (By Contract Administrator)  
\_\_\_\_\_, 20\_\_\_\_  
(Date)



**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 Broward County, the sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) as full and final payment to Contractor for all work and materials for the Project described as:

------------------

This sum includes full and final payment for all extra work and material and all incidentals.

Contractor hereby indemnifies and releases Broward County 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 County.

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

(CORPORATE SEAL OR NOTARY)

By: \_\_\_\_\_  
Authorized Signor

\_\_\_\_\_  
Print Name and Title

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

[If not incorporated sign below.]

CONTRACTOR

WITNESSES:

\_\_\_\_\_  
Witness signature

\_\_\_\_\_  
Business Name

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

By: \_\_\_\_\_  
Authorized Signor

\_\_\_\_\_  
Witness signature

\_\_\_\_\_  
Print/Type Name and Title

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

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

**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: \_\_\_\_\_  
(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 County 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 this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_,  
By \_\_\_\_\_ (Print Name) as \_\_\_\_\_ (Title)  
of \_\_\_\_\_ (Contractor), known to me to be the  
person described herein, or who produced \_\_\_\_\_ as identification,  
and who did/did not take an oath.

Notary Public:

(Seal)

\_\_\_\_\_  
(Signature)  
\_\_\_\_\_  
(Print Name)  
Commission No: \_\_\_\_\_ Expires: \_\_\_\_/\_\_\_\_/\_\_\_\_

State of \_\_\_\_\_ at Large

**FORM 14: LETTER OF INTENT (CBE/SBE)**  
**To Utilize a County Business Enterprise (CBE) or Small Business Enterprise (SBE)**  
**Subcontractor/Subconsultant**

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

Project Number: \_\_\_\_\_

Job Order No. \_\_\_\_\_

Job Order Title \_\_\_\_\_

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

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

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

In response to Broward County's RLI/Bid No. \_\_\_\_\_, 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 Broward County.

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**): \_\_\_\_\_

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

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.

\_\_\_\_\_

(Signature of Owner or Authorized Rep. **CBE/SBE**)

\_\_\_\_\_

(Date)

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

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

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

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



## FORM 16: STATEMENT OF CBE/SBE ASSURANCE

(Company Letterhead)

### CONTRACTOR ASSURANCE STATEMENT

#### PROJECT DESCRIPTION

---

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  
Broward County and (your company) for \_\_\_\_\_ Project, and to  
comply with the following requirements.

1. Compliance with the County'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 Bid document.

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

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

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

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

## Attachment A

### Security Requirements

#### A. General Security Requirements and Criminal Background Screening:

1. All contractor and sub-contractor personnel requiring unescorted access to Broward County facilities must obtain a County issued contractor identification badge (contractor ID badge); except as specifically stated herein.
2. The background screening requirements for obtaining a contractor ID badge will depend on the facility to which unescorted access is being requested. Contract Administrators or designees and contractors may contact Broward County Security at (954) 357-6000 or [FMsecurity@broward.org](mailto:FMsecurity@broward.org) for the required background screening requirements associated with access to specific facilities. Contract Administrators will communicate all current and appropriate requirements to the contractor and sub-contractor throughout the contract period.

#### B. General Facilities:

1. Contractor and sub-contractor personnel servicing and requiring unescorted access to General Facilities must have a County issued contractor ID badge (contractor ID badge) which will be the responsibility of the contractor to obtain. Depending upon the request, the badge may carry electronic access privileges. The badge must be visible and worn at all times together with the contractor's company/business contractor ID badge. Similar to employee security/ID badges, requests for contractor ID badges are initially approved by the requesting agency director or designee and then submitted to Facilities Management Division (FMD) Security for final approval.
2. The issuance of a contractor ID badge for unescorted access to General Facilities requires a "Level 1" FDLE background check, which can be conducted by the Florida Department of Law Enforcement (FDLE). This "Level 1" FDLE background check is the contractor's responsibility and should be included in the bid price. FDLE background checks can be done by the contractor by phone at (850) 410-8109 or online at <https://web.fdle.state.fl.us/search/app/default>.
3. Upon completion of the background check, the contractor must attach a copy of the results to the contractor's application for a contractor ID badge. The Project Manager or designee utilizing the service of the contractor will be the "Sponsor" and will either provide the contractor with a Contractor ID Badge Request Form or assist the contractor in completing an on-line application for the County issued contractor ID badge.
4. Requests for a contractor ID badge requiring an FDLE background check may require lengthy processing and review by the Broward Sheriff's Office (BSO). Contractors and subcontractors must therefore submit the request to Broward County Security at least two (2) weeks prior to the start of service by the contractor. When identification badges are ready, Broward County Security will contact the contractor to arrange pick up. Upon pick up, the applicant must present a valid Florida identification and must be accompanied by his or her supervisor. Broward County Security will then supply contractor ID badge valid for the anticipated period within which the work will be performed. The validity period must be clearly stated on the Contractor ID Badge Request Form; however, the period of validity will not exceed one (1) year. Background checks will be required for renewal of contractor ID badge. At the termination of the contract and separation of employee services, the contractor is responsible for the collection and return of all contractor ID badge to the Project Manager and/or to Broward County Security.
5. Compliance with the County's security requirements is part of the overall contract performance evaluation. Final payment will, in part, be contingent on the return of all contractor ID badges issued to contractor personnel.
6. Broward County Security is located at Governmental Center East, 115 South Andrews Avenue Fort Lauderdale, FL 33301. Telephone (954) 357-6000.
7. All contractors must wear distinctive and neat appearing uniforms with vendor's company name. Sub-contractor personnel must also have Broward County issued contractor IDs and meet the same security requirements and uniform standards as the primary contractor.
8. Contractors will not be allowed unescorted on the job site without proper County issued contractor ID badges.

#### C. Facilities Critical to Security and Public Safety:

Many Broward County government facilities will have areas designated as critical to security and public safety, pursuant to Broward County Ordinance 2003-08 Sections 26-121 and 26-122, as may be amended. The issuance of a contractor ID badge for unescorted access to facilities critical to security and public safety may entail a comprehensive statewide and national background check. Unescorted access to certain facilities occupied by the Broward Sheriff's Office (BSO) and the State Attorney's Office will require a national fingerprint-based records check per the Criminal Justice Information System (CJIS) policy.

A contractor employee found to have a criminal record consisting of felony conviction(s) shall be disqualified from access to the State Attorney's Offices and certain BSO facilities. A contractor employee with a record of misdemeanor offense(s) may be granted access if the System Security Officer (SSO), Terminal Access Coordinator (TAC), and FDLE determines that the nature of the offense(s) do not warrant disqualification. Applicants shall also be disqualified on the basis of confirmations that arrest warrants are outstanding for such applicants.

#### D. Contractor Work Crews:

Background investigations are generally not required for each member of a contractor work crew working on county premises and outside a building or structure. Examples are landscape crews and roofers. If it is necessary to enter the building or structure unescorted, these work crew members should obtain a contractor ID badge. If not, work crew members must be escorted at all times by the project manager, or designee, and must be under the direct supervision of a foreperson for the contractor. The foreperson must be aware of the crew members' whereabouts, has completed the appropriate background check for the location and type of work being undertaken, and has been issued and is displaying a contractor ID badge.

All members of a night cleaning crew must complete a background investigation appropriate to the requirements of the facility and so should all work crew members not escorted when working at a critical county facility.



Notwithstanding, the using agency is best positioned and suited to determine the safeguards and requirements that should be in place to manage the risks and consequences associated with the roles and activities of contractor, subcontractor, and work crews, when requesting a contractor ID badge. The agency is aware of the characteristics of the client population being served by the classes of persons, the need to safeguard high-value assets, and the requirement to comply with all statutory requirements governing background investigations.

**E. Other Vendors:**

Consultants, delivery personnel, and vending machine operators, without a County issued contractor badge, may obtain a Visitor pass and should be escorted by County personnel when accessing and working in designated non-public and employee work areas at both general facilities and facilities critical to security and public safety.

**F. Port Everglades Locations:**

1. The Port Everglades Department requires persons to present, at port entry, a valid driver's license, and valid reason for wishing to be granted port access in order to obtain a temporary/visitor ID badge. For persons who will visit the Port more than 15 times in a 90 day period, a permanent identification badge must be obtained and paid for by the contractor for all employees, subcontractors, agents and servants visiting or working on the port project. A restricted access badge application process will include fingerprints and a comprehensive background check. Badges must be renewed annually and the fees paid pursuant to Broward County Administrative Code, Section 42.6. For further information, please call 954-765-4225.
2. All vehicles that are used regularly on the dock apron must have a Dockside Parking Permit. Only a limited number of permits will be issued per business entity. The fee is \$100.00 per permit/vehicle. Individuals requesting a permit must possess a valid Port-issued Restricted Access Area badge with a "Dock" destination. Requests for Dockside Parking Permits must be submitted in writing, on company letterhead, to the ID Badge Office. Applicants must demonstrate a need for access to the dock apron. Requests shall be investigated, and approved, if appropriate justification is provided. Supporting documentation must be supplied, if requested. Dock permits are not transferable and must be affixed to the lower left corner of the permitted vehicle's windshield. Should the permit holder wish to transfer the permit to another vehicle during the term of issuance, the permit will be removed and exchanged at no charge for a new permit. Only one business entity representative will be permitted on the dock at a time at the vessel location.
3. The Federal Government has instituted requirements for a Transportation Worker Identification Credential (TWIC) for all personnel requiring unescorted access to designated secure areas within Port Everglades. The contractor will be responsible for complying with the applicable TWIC requirements. For further information, please call 1-855-347-8371, or go on line to <https://www.tsa.gov/for-industry/twic>.

**G. Airport Security Program and Aviation Regulations:**

1. Consultant/contractor agrees to observe all security requirements and other requirements of the Federal Aviation Regulations applicable to Consultant/contractor, including without limitation, all regulations of the United States Department of Transportation, the Federal Aviation Administration and the Transportation Security Administration, and the Consultant/contractor agrees to comply with the County's Airport Security Program and the Air Operations area (AOA) Vehicle Access Program, and amendments thereto, and to comply with such other rules and regulations as may be reasonably prescribed by the County, and to take such steps as may be necessary or directed by the County to insure that sub lessees, employees, invitees and guests observe these requirements. If required by the Aviation Department, Consultant/contractor shall conduct background checks of its employees in accordance with applicable Federal regulations.
2. If as a result of the acts or omissions of Consultant/contractor, its sub lessees, employees, invitees or guests, the County incurs any fines and/or penalties imposed by any governmental agency, including without limitation, the United States Department of Transportation, the Federal Aviation Administration or the Transportation Security Administration, or any expense in enforcing any federal regulations, including without limitation, airport security regulations, or the rules or regulations of the County, and/or any expense in enforcing the County's Airport Security Program, then consultant/contractor agrees to pay and/or reimburse the County all such costs and expenses, including all costs of administrative proceedings, court costs, and attorneys' fees and all costs incurred by County in enforcing this provision. Consultant/contractor further agrees to rectify any security deficiency or other deficiency as may be determined as such by the County or the United States Department of Transportation, Federal Aviation Administration, the Transportation Security Administration, or any other federal agency. In the event consultant/contractor fails to remedy any such deficiency, the County may do so at the cost and expense of consultant/contractor. The County reserves the right to take whatever action is necessary to rectify any security deficiency or other deficiency.
3. Operation of Vehicles on the AOA: Before the consultant/contractor shall permit any employee of consultant/contractor or any sub consultant/subcontractor to operate a motor vehicle of any kind or type on the AOA (and unless escorted by an Aviation Department approved escort), the consultant/contractor shall ensure that all such vehicle operators possess current, valid, and appropriate Florida driver's licenses. In addition, any motor vehicles and equipment of consultant/contractor or of any sub consultant/subcontractor operating on the AOA must have an appropriate vehicle identification permit issued by the Aviation Department, which identification must be displayed as required by the Aviation Department.
4. Consent to Search/Inspection: The consultant/contractor agrees that its vehicles, cargo, goods, and other personal property are subject to being inspected and searched when attempting to enter or leave and while on the AOA. The consultant/contractor further agrees on behalf of itself and its sub consultant /subcontractors that it shall not authorize any employee or other person to enter the AOA unless and until such employee other person has executed a written consent-to-search/inspection form acceptable to the Aviation Department. Consultant/contractor acknowledges and understands that the forgoing requirements are for the protection of users of the Airport and are intended to reduce incidents of cargo tampering, aircraft sabotage, thefts and other unlawful activities at the Airport. For this reason,

consultant/contractor agrees that persons not executing such consent-to-search/inspection form shall not be employed by the consultant/contractor or by any sub consultant/contractor at the Airport in any position requiring access to the AOA or allowed entry to the AOA by the consultant/contractor or by any sub consultant/contractors.

5. The provisions hereof shall survive the expiration or any other termination of this contract.

#### **H. Water and Wastewater Services (WWS):**

1. Contractors/Consultants may receive a WWS ID Badge and/or Access Card and/or Keys while working at WWS facility work sites. These items provide modified access to certain areas and systems otherwise restricted to non-WWS employees and can only be obtained from the WWS Security Manager. These items may be rescinded at the discretion of the WWS Security Officer. The WWS ID Badge, Access Card and/or Keys remain the property of Broward County and must be returned to your WWS contact person at the end of the contract/project.
2. All contractors will complete and sign the WWS Contractor/Consultant Security Memorandum and provide a copy of their Driver's License to be recorded on Schlage Card Access System Profile.
3. A lost or stolen ID Badge and/or Access Card and/or Keys must be reported to the Security Manager immediately.
4. WWS may terminate access to any contractor who acts inappropriately while on County property and has the right to contact BSO if necessary to have the contractor removed and/or file charges against them.

#### **I. Additional Security Requirements for Parks and Recreation:**

1. Contractor expressly understands and agrees that a duty is hereby created under this Contract that requires contractor to provide ongoing disclosure throughout the term of this Contract as provided for herein relative to the criminal background screening required by this Section.
2. Contractor shall perform criminal background screening as identified in Item 3 below on its officers, employees, agents, independent contractors and volunteers who will be working under this contract in any County park ("collectively referred to as "County Park Property"). Further, if contractor is permitted to utilize subcontractors under this contract, contractor shall perform or ensure that the background screening as required in Item 3 below is conducted on any permitted subcontractor, which term includes the subcontractor's officers, employees, agents, independent contractors and volunteers who will be working under this contract on County Park property.
3. Contractor shall not permit any person who is listed as a sexual predator or sexual offender on the Florida Department of Law Enforcement, Sexual Offenders and Predators Website or the United States Department of Justice, National Sex Offender Public Website, to provide any services for contractor on County Park Property. All persons subject to the criminal background screening under this contract shall be rescreened annually based on the date of initial screening.
4. Contractor shall maintain copies of the results of the criminal background screening required by this Section for the term of this contract and promptly forward copies of same to County, upon its request.
5. Contractor shall be required to furnish to County's Parks and Recreation Project Manager, on a monthly basis, an Affidavit affirming the persons listed in the Affidavit have been background screened as required in Item 3 above and have been deemed eligible by contractor to work on County Park property. Contractor's monthly Affidavit shall update information from the previous Affidavit by reconfirming the status of persons who have previously been deemed eligible as provided for above and updating the list, when applicable, to specifically identify new persons providing services for contractor under this Contract who have been background screened as required in Item 3 above and deemed eligible to work on County Park Property. The Contract Administrator may, in his or her discretion, permit contractor to furnish the monthly Affidavit in an electronic format.
6. In the event contractor obtains, or is provided, supplemental criminal background information, including police reports and arrest information, which potentially disqualifies a person previously deemed eligible by contractor to provide services under this contract, contractor shall take immediate action to review the matter; however, during such review time and until a determination of eligibility is made by contractor based on the requirements of this Section, contractor shall immediately cease allowing the person to work on County Park Property. Additionally, contractor shall be required to inform any person background screened pursuant to this Section who is providing services under this contract, to notify contractor within forty-eight (48) hours of any arrest related to sexual misconduct which has occurred after the person was deemed eligible to work on County Park Property.
7. Contractor shall, by written contract, require its permitted subcontractors to agree to the requirements and obligations of this Section.
8. County may terminate this contract immediately for cause, with Notice provided to contractor, for a violation related to contractor's failure to perform the required background screening on its officers, employees, agents, independent contractors and volunteers who will be working under this Agreement on County Park Property. County may also terminate this contract immediately for cause, with Notice provided to contractor, if County determines contractor failed to ensure that its permitted subcontractors, as defined in Item 2 above, have been background screened as required in this section prior to performing any services under this Agreement on County Park Property. Contractor will not be subject to immediate termination in the event County determines a violation of this Section was outside the reasonable control of contractor and contractor has demonstrated to County compliance with the requirements of this Section.
9. County may terminate this contract for cause if contractor fails to provide the monthly Affidavit to County as provided for under Item 5 above, and contractor does not cure said breach within five (5) days of Notice provided to contractor.

### **Security Requirements – Aviation Department**

- A. Consultant/contractor agrees to observe all security requirements and other requirements of the Federal Aviation Regulations applicable to Consultant/contractor, including without limitation, all regulations of the United States Department of Transportation, the Federal Aviation Administration and the Transportation Security Administration, and the Consultant/contractor agrees to comply with the County's Airport Security Program and the Air Operations area (AOA) Vehicle Access Program, and amendments thereto, and to comply with such other rules and regulations as may be reasonably prescribed by the County, and to take such steps as may be necessary or directed by the County to insure that sub lessees, employees, invitees and guests observe these requirements. If required by the Aviation Department, Consultant/contractor shall conduct background checks of its employees in accordance with applicable Federal regulations.
- B. If as a result of the acts or omissions of Consultant/contractor, its sub lessees, employees, invitees or guests, the County incurs any fines and/or penalties imposed by any governmental agency, including without limitation, the United States Department of Transportation, the Federal Aviation Administration or the Transportation Security Administration, or any expense in enforcing any federal regulations, including without limitation, airport security regulations, or the rules or regulations of the County, and/or any expense in enforcing the County's Airport Security Program, then consultant/contractor agrees to pay and/or reimburse the County all such costs and expenses, including all costs of administrative proceedings, court costs, and attorneys' fees and all costs incurred by County in enforcing this provision. Consultant/contractor further agrees to rectify any security deficiency or other deficiency as may be determined as such by the County or the United States Department of Transportation, Federal Aviation Administration, the Transportation Security Administration, or any other federal agency. In the event consultant/contractor fails to remedy any such deficiency, the County may do so at the cost and expense of consultant/contractor. The County reserves the right to take whatever action is necessary to rectify any security deficiency or other deficiency.
- C. Operation of Vehicles on the AOA: Before the consultant/contractor shall permit any employee of consultant/contractor or any sub consultant/subcontractor to operate a motor vehicle of any kind or type on the AOA (and unless escorted by an Aviation Department approved escort), the consultant/contractor shall ensure that all such vehicle operators possess current, valid, and appropriate Florida driver's licenses. In addition, any motor vehicles and equipment of consultant/contractor or of any sub consultant/subcontractor operating on the AOA must have an appropriate vehicle identification permit issued by the Aviation Department, which identification must be displayed as required by the Aviation Department.
- D. Consent to Search/Inspection: The consultant/contractor agrees that its vehicles, cargo, goods, and other personal property are subject to being inspected and searched when attempting to enter or leave and while on the AOA. The consultant/contractor further agrees on behalf of itself and its sub consultant /subcontractors that it shall not authorize any employee or other person to enter the AOA unless and until such employee other person has executed a written consent-to-search/inspection form acceptable to the Aviation Department. Consultant/contractor acknowledges and understands that the forgoing requirements are for the protection of users of the Airport and are intended to reduce incidents of cargo tampering, aircraft sabotage, thefts and other unlawful activities at the Airport. For this reason, consultant/contractor agrees that persons not executing such consent-to-search/inspection form shall not be employed by the consultant/contractor or by any sub consultant/contractor at the Airport in any position requiring access to the AOA or allowed entry to the AOA by the consultant/contractor or by any sub consultant/contractors.
- E. The provisions hereof shall survive the expiration or any other termination of this contract.



### Security Requirements – Port Everglades

- A. The Port Everglades Department requires persons to present, at port entry, a valid driver's license, and valid reason for wishing to be granted port access in order to obtain a temporary/visitor ID badge. For persons who will visit the Port more than 15 times in a 90 day period, a permanent identification badge must be obtained and paid for by the contractor for all employees, subcontractors, agents and servants visiting or working on the port project. A restricted access badge application process will include fingerprints and a comprehensive background check. Badges must be renewed annually and the fees paid pursuant to Broward County Administrative Code, Section 42.6. For further information, please call 954-765-4225.
- B. All vehicles that are used regularly on the dock apron must have a Dockside Parking Permit. Only a limited number of permits will be issued per business entity. The fee is \$100.00 per permit/vehicle. Individuals requesting a permit must possess a valid Port-issued Restricted Access Area badge with a "Dock" destination. Requests for Dockside Parking Permits must be submitted in writing, on company letterhead, to the ID Badge Office. Applicants must demonstrate a need for access to the dock apron. Requests shall be investigated, and approved, if appropriate justification is provided. Supporting documentation must be supplied, if requested. Dock permits are not transferable and must be affixed to the lower left corner of the permitted vehicle's windshield. Should the permit holder wish to transfer the permit to another vehicle during the term of issuance, the permit will be removed and exchanged at no charge for a new permit. Only one business entity representative will be permitted on the dock at a time at the vessel location.
- C. The Federal Government has instituted requirements for a Transportation Worker Identification Credential (TWIC) for all personnel requiring unescorted access to designated secure areas within Port Everglades. The contractor will be responsible for complying with the applicable TWIC requirements. For further information, please call 1-855-347-8371, or go on line to <https://www.tsa.gov/for-industry/twic>.

## Exhibit 1

## INSURANCE REQUIREMENTS

Project: Job Order Contract  
Agency: Facilities Management Division

TYPE OF INSURANCE	ADDL INSD	SUBR WVD	MINIMUM LIABILITY LIMITS		
				Each Occurrence	Aggregate
<b>GENERAL LIABILITY - Broad form</b> <input checked="" type="checkbox"/> Commercial General Liability <input checked="" type="checkbox"/> Premises-Operations <input checked="" type="checkbox"/> XCU Explosion/Collapse/Underground <input checked="" type="checkbox"/> Products/Completed Operations Hazard <input checked="" type="checkbox"/> Contractual Insurance <input checked="" type="checkbox"/> Broad Form Property Damage <input checked="" type="checkbox"/> Independent Contractors <input checked="" type="checkbox"/> Personal Injury <b>Per Occurrence or Claims-Made:</b> <input checked="" type="checkbox"/> Per Occurrence <input type="checkbox"/> Claims-Made <b>Gen'l Aggregate Limit Applies per:</b> <input type="checkbox"/> Project <input type="checkbox"/> Policy <input type="checkbox"/> Loc. <input type="checkbox"/> Other _____	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Bodily Injury Property Damage Combined Bodily Injury and Property Damage Personal Injury Products & Completed Operations	\$1,000,000 \$5,000,000 if Airside	\$2,000,000
<b>AUTO LIABILITY</b> <input checked="" type="checkbox"/> Comprehensive Form <input checked="" type="checkbox"/> Owned <input checked="" type="checkbox"/> Hired <input checked="" type="checkbox"/> Non-owned <input checked="" type="checkbox"/> Any Auto, If applicable <i>Note: May be waived if no driving will be done in performance of services project.</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Bodily Injury (each person) Bodily Injury (each accident) Property Damage Combined Bodily Injury and Property Damage	\$1,000,000 \$5,000,000 if Airside	
<input type="checkbox"/> <b>EXCESS LIABILITY / UMBRELLA</b> <b>Per Occurrence or Claims-Made:</b> <input type="checkbox"/> Per Occurrence <input type="checkbox"/> Claims-Made <i>Note: May be used to supplement minimum liability coverage requirements.</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			
<input checked="" type="checkbox"/> <b>WORKER'S COMPENSATION</b> <i>Note: U.S. Longshoremen &amp; Harbor Workers' Act &amp; Jones Act is required for any activities on or about navigable water.</i>	N/A	<input checked="" type="checkbox"/>	Each Accident	STATUTORY LIMITS	
<input checked="" type="checkbox"/> <b>EMPLOYER'S LIABILITY</b>			Each Accident	\$1,000,000	
<input checked="" type="checkbox"/> <b>PROFESSIONAL LIABILITY (ERRORS &amp; OMISSIONS)</b> Required for all engineering, surveying and design professionals.	N/A	<input checked="" type="checkbox"/>	If claims-made form: Extended Reporting Period of: *Maximum Deductible:	\$1,000,000 2 years \$100,000	
<input checked="" type="checkbox"/> <b>POLLUTION/ENVIRONMENTAL LIABILITY</b> *Required if project involves environmental hazards.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	If claims-made form: Extended Reporting Period of: *Maximum Deductible:	\$1,000,000 2 years \$10,000	\$2,000,000
<input checked="" type="checkbox"/> Installation Floater is required if Builder's Risk or Property are not carried. <i>Note: Coverage must be "All Risk", Completed Value. Broward County must be shown as a Loss Payee.</i>			*Maximum Deductible: CONTRACTOR IS RESPONSIBLE FOR DEDUCTIBLE	\$10,000	Completed Value
<b>Description of Operations:</b> "Broward County" shall be listed as Certificate Holder and endorsed as an additional insured for liability, except as to Professional Liability. County shall be provided 30 days written notice of cancellation, 10 days' notice of cancellation for non-payment. Contractors insurance shall provide primary coverage and shall not require contribution from the County, self-insurance or otherwise. Any self-insured retention (SIR) higher than the amount permitted in this Agreement must be declared to and approved by County and may require proof of financial ability to meet losses. Contractor is responsible for all coverage deductibles unless otherwise specified in the agreement.					
<b>CERTIFICATE HOLDER:</b> Broward County 115 South Andrews Avenue Fort Lauderdale, Florida 33301					

  
cpounall@broward.org  
cm-cpounall@broward.org  
2019.07.09 14:57:19 -04'00'  
 Risk Management Division