

SETTLEMENT AGREEMENT

This Settlement Agreement (the “Settlement Agreement”) by and between Broward County, a political subdivision of the State of Florida (“County”), and Acosta Tractors, Inc., a Florida corporation (“Acosta”) (each a “Party” and collectively, the “Parties”), is entered into and effective as of the date it is fully executed by the Parties.

RECITALS

A. Acosta and County entered into a Contract Between Broward County and Acosta Tractors, Inc. for Construction of Wiles Road from University Drive to Riverside Drive, Bid/Contract No.: PNC2121018C1, on about January 19, 2021 (the “Contract”), with the required work under the contract including drainage, sidewalks, bike lanes, signalization, lighting, landscaping, and irrigation (the “Project”).

B. Acosta asserted claims for damages due to alleged delays in the completion of the Project, additional and unpaid work performed, utility conflicts, and the release of retainage.

C. County notified Acosta of County’s claims for liquidated damages due to delays in the completion of the Project.

D. The Parties have engaged in negotiations in an effort to amicably resolve all claims the Parties have asserted against one another arising out of or relating to the Contract and the Project.

E. The Parties desire to memorialize in writing their negotiations to resolve the Parties’ respective claims so that the resolution of all issues is binding upon them.

NOW, THEREFORE, in consideration of the foregoing representations and mutual covenants, promises, and considerations hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, and with the intent to be legally bound, it is hereby agreed between the Parties as follows:

1. **Representations:** The foregoing recitals are true and correct and by this reference thereto are incorporated herein and made a part hereof.
2. **Terms of Settlement:** The Parties hereby covenant and agree as follows:
 - A. Within thirty (30) calendar days after the date this Settlement Agreement has been fully executed by the Parties, County shall pay to Acosta the sum of Two Hundred Twelve Thousand Three Hundred Five Dollars and Forty-eight Cents (\$212,305.48) in full and final settlement of all matters relating to the Contract or the Project and all matters addressed by this Settlement Agreement, including, but not limited to, Acosta’s claims for damages due to alleged delays in the completion of the Project, additional and unpaid work performed, utility conflicts, and retainage.

- B. Part of Acosta's claim includes alleged delays caused by utility conflicts and the failure of utility companies to act in a timely manner. As such and strictly limited to claims that could be brought by County against a utility company directly relating to the construction of this Project, the County does hereby sell, assign, and transfer to Acosta all of County's rights, title, and interest in and to all causes of action, suits, debts, dues, sums of money, accounts, reckonings, trespasses, damages, judgments, executions, claims and demands whatsoever in law or in equity, from the beginning of the world to the date hereof, strictly related to the alleged delays to the Project's schedule caused by utility conflicts or the failure of utility companies to act in a timely manner on the Project. Nothing herein shall be construed to sell, assign, or transfer to Acosta any refunds, reimbursements, or other compensation of County relating to overpayment by County of utilities. In exchange for such sale, assignment, and transfer, Acosta shall indemnify, defend, and hold harmless County and its officers and employees, from any and all liabilities, damages, losses, claims, costs, and suits of any kind initiated by any and all utility companies that maintained, operated, or owned utility services on the Project site during construction of the Project or that otherwise allegedly impacted the Project, including, but not limited to, AT&T, North Springs Improvement District, Comcast, Blue Stream, TECO, Florida Power & Light, and Crown Castle, their employees, officers, agents, subconsultants, successors, and assigns (hereinafter referred to as "utility companies"), in the event Acosta pursues any legal action against any utility company(ies) and the utility company(ies) commence(s) a legal proceeding against the County arising out of and in connection with Acosta's pursuit of the referenced legal action. Acosta's obligation to indemnify, defend, and hold harmless County and its officers and employees shall be triggered by and commence upon any notice by any utility companies that such utility company intends to bring a cause of action against the County or to otherwise seek financial contribution from the County arising out of and in connection with Acosta's pursuit of the referenced legal action. County agrees to reasonably cooperate with Acosta in the prosecution or defense of any action resulting from the assignment described in this paragraph. The obligation by County to reasonably cooperate shall not require the County to spend money or provide any legal or professional services, but Acosta may request from County documents, information, and fact testimony in the County's control and possession.
- C. Except as expressly stated in Paragraph 6, the Parties shall each bear their own attorneys' fees and costs relating to this matter and the resolution of all disputes relating to this Contract and the Project.
3. **No Admission:** By entering into this Settlement Agreement, no Party admits fault or liability, but rather the Parties have agreed to the terms of this Settlement Agreement as a compromise of disputed claims in the interest of avoiding the costs and uncertainty of litigation.

4. **Mutual Final Releases:** The Parties, by execution of this Settlement Agreement, hereby release, waive, and discharge each other from any and all claims, demands, damages, causes of action, actions, subrogation claims, litigation costs, including, but not limited to, attorney's fees, and losses of every kind and nature, whether known or unknown, asserted or unasserted, patent or latent, arising from or relating to the Contract or the Project, except as specifically reserved by County herein. The Parties further expressly covenant, promise, and agree, for themselves and their respective successors and assigns, that they shall be and are hereby forever barred and permanently enjoined from asserting any and all claims, supplemental claims, causes of action, subrogation rights, or damages arising from or relating to the Contract and the Project, except as expressly reserved by County herein. The Parties may enforce the requirement that the other Party comply with the terms and conditions set forth in this Settlement Agreement notwithstanding the release contained in this Paragraph. The release set forth in this Paragraph shall not serve as a release by the County of any patent or latent construction defects or warranty claims on the Contract or the Project, and County expressly reserves the right to bring any and all claims, supplemental claims, and causes of action, and to pursue the recovery of damages, relating to patent or latent construction defects or warranty claims on the Contract and the Project.
5. **Representations and Indemnification:** Acosta shall provide to the County before the payment required by Section 2.A. above a consent of Surety to final payment on Acosta's behalf in accordance with Article 6.2 of the Contract (providing this consent of Surety is a condition precedent to the County's payment obligation). Acosta acknowledges that County is relying on this consent of the Surety in entering into this Settlement Agreement. Acosta agrees to hold the County harmless with respect to all bills, invoices, expenses, and claims, whether known or unknown at this time, of any individuals and entities that furnished labor, material, or supplies for the Project, whether directly or indirectly, and to indemnify and defend County from any claims related to such bills, invoices, expenses, or claims.
6. **Default:** In the event of a default of any of the covenants and conditions set forth herein that is not cured by the defaulting Party within fifteen (15) business days after written notice from the non-defaulting Party, the non-defaulting Party shall have the right to seek Court enforcement of this Settlement Agreement. Attorney's fees and costs to enforce this Settlement Agreement will be recoverable by the prevailing Party.
7. **Binding Effect:** The undersigned represent that they are empowered by the respective Parties to enter into on behalf of their respective Party and to bind their respective Party to the commitments and undertakings contained herein. The provisions, conditions, terms, and covenants contained herein shall be of a binding effect. The benefits and advantages hereof shall inure to the respective Parties, and the respective successors, assigns, trustees, receivers, and personal representatives of the Parties hereto.

8. **Full Disclosure:** The Parties acknowledge and agree that each is releasing certain rights and assuming certain duties and obligations that, but for this Settlement Agreement, would not have been released or assumed. Accordingly, the Parties agree that this Settlement Agreement is fully and adequately supported by consideration and is fair and reasonable, that the Parties have had the opportunity to consult with and have in fact consulted with such experts of their choice as they may have desired, and that they have had the opportunity to discuss this matter with counsel of their choice.
9. **Governing Law and Venue:** The Parties acknowledge and agree that this Settlement Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Settlement Agreement and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida, the venue situs. **To encourage prompt and equitable resolution of any litigation that may arise hereunder, each Party hereby waives any rights it may have to a trial by jury of any such litigation.**
10. **Severability:** The Parties acknowledge and agree that, if any part, term, or provision of this Settlement Agreement is determined by any court of competent jurisdiction to be invalid, illegal, or in conflict with any law of Florida, such provision shall be severed from the Settlement Agreement and the validity of the remaining portions or provisions shall not be affected thereby and shall remain in full force and effect.
11. **Merger:** This Settlement Agreement incorporates, includes, and supersedes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein; and the Parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Settlement Agreement that are not contained in this written document. Accordingly, the Parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements whether oral or written.
12. **Joint Preparation:** The Parties acknowledge that they have sought and received (or have had the opportunity to seek and receive) whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and acknowledge that the preparation of this Settlement Agreement has been their joint effort. The language agreed to expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the Parties than the other.
13. **Counterparts:** This Settlement Agreement may be executed in any number of counterparts, each of which, when executed and delivered, shall be an original, but such counterparts shall together constitute one and the same instrument.

14. **Captions:** The captions of the sections of this Settlement Agreement are for convenient reference only and shall not affect the construction nor interpretation of any of the terms and provisions set forth herein.
15. **Survival of Provisions:** All covenants, warranties, and representations contained in this Settlement Agreement, and all documents to be delivered by the Parties in connection with the consummation of the transaction contained herein, shall survive the consummation of said transaction.
16. **Further Assurance:** The Parties shall execute all such further instruments, and agree to take all such further actions, that may be reasonably required by the other party to fully effectuate the terms and provisions of this Settlement Agreement and the transactions contemplated herein.
17. **Modification:** No change or modification of this Settlement Agreement shall be valid unless in writing and signed by all Parties hereto. No waiver of any of the provisions of this Settlement Agreement shall be valid unless in writing and signed by the Party against whom it is sought to be enforced.
18. **Notice:** In order for notice to a Party to be effective under this Settlement Agreement, notice must be sent via U.S. first-class mail, hand delivery, or commercial overnight delivery, each with a contemporaneous copy via e-mail, to the addresses listed below and shall be effective upon mailing or hand delivery (provided the contemporaneous e-mail is also sent). The addresses for notice shall remain as set forth in this section unless and until changed by providing notice of such change in accordance with this section:

For County:

Broward County Highway Construction and Engineering Division
Attn: Richard Tornese, or current Director of the
Highway Construction and Engineering Division
1 N. University Drive
Plantation FL. 33324
Email address: rtornese@broward.org

For Acosta:

Frank P. Acosta, P.E.
Acosta Tractors, Inc.
11986 NW 97th Avenue
Hialeah Gardens, FL 33018
Email: fpacosta@acostatractors.com

19. **Third-Party Beneficiaries:** The Parties do not intend to directly or substantially benefit a third party by entering into this Settlement Agreement. Therefore, the Parties agree that there are no third-party beneficiaries to this Settlement Agreement.

20. **Representation of No Assignment:** The Parties each expressly warrant, represent, and covenant to the Parties released herein that the respective Party is presently the legal owner and holder of the claims or causes of action released hereby, and that they have not expressly or impliedly assigned, transferred, pledged, or otherwise disposed of any such rights, claims, demands, or causes of action being described herein and released hereby, and each Party is expressly relying upon said warrant, representation, and covenant.

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, the Parties have made and executed this Settlement Agreement on the respective dates under each signature: Broward County, through its Board of County Commissioners, signing by and through its Mayor or Vice-Mayor, authorized to execute same by Board action on the _____ day of _____, 2025, and Acosta Tractors, Inc., signing by and through its President, duly authorized to execute same.

COUNTY

ATTEST:

BROWARD COUNTY, by and through
its Board of County Commissioners

Broward County Administrator, as
ex officio Clerk of the Broward County
Board of County Commissioners

By: _____
Mayor
____ day of _____, 2025

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
Telecopier: (954) 357-7641

By: 
Michael J. Kerr (Date)
Chief Counsel

**SETTLEMENT AGREEMENT BY AND BETWEEN
BROWARD COUNTY AND ACOSTA TRACTORS, INC.**

ACOSTA

WITNESSES:

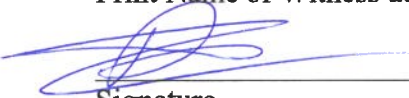
ACOSTA TRACTORS, INC.



Signature

Ernesto DIAZ

Print Name of Witness above



Signature

Danielle Sardinas

Print Name of Witness above

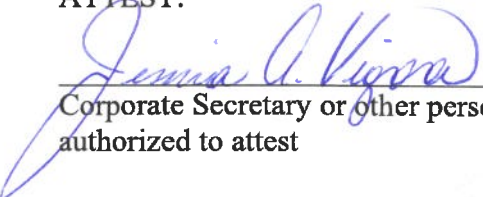
By: 

FELIX ACOSTA.

Print Name and Title

30th day of July, 2025

ATTEST:



Corporate Secretary or other person
authorized to attest

(Corporate Seal or Notary)

