



**CONTRACT BETWEEN BROWARD COUNTY AND  
SOUTHERN UNDERGROUND INDUSTRIES, INC. FOR REGIONAL EFFLUENT AND REUSE  
SOLUTIONS – BID PACKAGE 2  
BID/CONTRACT NO.: PNC2130531C1**

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**CONTRACT BETWEEN BROWARD COUNTY AND SOUTHERN UNDERGROUND INDUSTRIES, INC.  
FOR REGIONAL EFFLUENT AND REUSE SOLUTIONS – BID PACKAGE 2**

<b>Project Title:</b>	<b>Regional Effluent and Reuse Solutions – Bid Package 2</b>
<b>Location:</b>	<b>City of Pompano Beach</b>
<b>Solicitation Number:</b>	<b>PNC2130531C1</b>
<b>Contract Number:</b>	
<b>Project Number:</b>	<b>105643</b>

**SUMMARY OF TERMS AND CONDITIONS**

<b>Contractor:</b>	<b>Southern Underground Industries, Inc.</b>
Contractor Address:	<b>794 S. Military Trail, Deerfield Beach FL 33442</b>
Federal Identification No.:	26-2521235
State Registration/Cert. No.	CUC1224635/CGC1511806

<b>Contract Administrator:</b>	Alicia Dunne, PE, PMP
Contract Administrator Address:	2555 W. Copans Road Pompano Beach, FL 33069

<b>Consultant:</b>	Thompson & Associates
Consultant Address:	412 SE 18th Street, Fort Lauderdale, FL 33316

<b>Article</b>	<b>Description</b>	<b>Instructions/Unit(s)</b>
3.1 and 3.2	Substantial Completion	365 Days after the Project Initiation Date in Second NTP
3.2	Final Completion	30 Days after Substantial Completion
3.3	<b>[If applicable]</b> Liquidated Damages for each calendar day after time specified in Notice to Proceed	\$_____ per day
3.3	Liquidated Damages for each calendar day after time specified for Substantial Completion	\$1,340.00 per day
3.3	Liquidated Damages for each calendar day after time specified for Final Completion	\$940.00 per day
3.3	<b>[If applicable]</b> Liquidated Damages for each calendar day after time specified for interim Milestones (or phase):  [Milestones 1, 2, 3, etc.: Division 1, Section _____]	Interim Milestone #1 \$_____ per day Interim Milestone #2 \$_____ per day Interim Milestone #3 \$_____ per day

Article	Description	Instructions/Unit(s)
5.2	Will Materials and equipment be stored at the Project site?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
8.1	Is this Contract subject to Florida Department of Transportation provisions?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
8.4	The Parties designate the following as the respective places for giving of notice:	For County: _____ For Contractor: _____
8.24 and 8.25	Select the sources of funding that apply to this Project:	<input checked="" type="checkbox"/> Federal funding <input checked="" type="checkbox"/> State funding <input checked="" type="checkbox"/> County funding
Contract Supplement	Identify each article supplemented in the Contract Supplement.	The following articles are supplemented: _____
42 (General Conditions)	Compensable Excusable Delay for each calendar day beyond the Contract Time.	\$500.00 per day
54 (General Conditions)	<input type="checkbox"/> County Business Enterprise (CBE) or <input type="checkbox"/> Small Business Enterprise (SBE) commitment	As awarded 0%
Supplemental General Conditions	Identify each article supplemented in the Supplemental General Conditions.	The following articles are supplemented: _____

## CONTRACT

This construction contract (“Contract”) is between Broward County, a political subdivision of the State of Florida (“County”), and Southern Underground Industries, Inc., a [Florida For-Profit Corporation] (“Contractor”) (each a “Party” and collectively referred to as the “Parties”), for the goods and services set forth herein.

## RECITALS

A. County requires construction services to complete the Regional Effluent and Reuse Solutions BC WWS Project No. 105643 Bid Package 2, which includes, without limitation, construction of a new effluent water transmission main, installation of required fittings and valves, restoration of green areas, restoration of disturbed area(s), as well as replacement of concrete sidewalks, curbing, driveway, asphalt, fencing, disturbed trees, pavement markings, and signage.

B. Contractor represents that it is ready, willing to, and capable of providing such construction services to County.

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

## ARTICLE 1. DEFINITIONS

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

- 1.1. **Applicable Law** means all applicable laws, codes, advisory circulars, rules, regulations, and ordinances of any federal, state, county, municipal, or other governmental entity, including as amended.
- 1.2. **Bidder** means an entity or individual submitting a bid for this Project, acting directly or through a duly authorized representative.
- 1.3. **Board** means the Board of County Commissioners of Broward County, Florida, its successors and assigns.
- 1.4. **Change Order** means a written document ordering a change in the Contract Price or Contract Time or a material change in the Work.
- 1.5. **Code** means the Broward County Code of Ordinances.
- 1.6. **Consultant** means the architect or engineer who has contracted with County or who is an employee of County and provides professional services for this Project.

1.7. **Contract Administrator** means the Director of Water & Wastewater Engineering Division, or Assistant Director of Water & Wastewater Engineering Division, or such other person designated by the Director of Water & Wastewater Engineering Division in writing.

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

1.9. **Contract Price** means the amount established in the bid submittal and award by the Board or County's Director of Purchasing, as applicable, as may be amended by Change Order.

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

1.11. **Contractor** means the person, firm, or corporation identified in this Contract as the Party 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.

1.12. **County Business Enterprise** or **CBE** means an entity certified as meeting the applicable requirements of the Broward County Business Opportunity Act, Section 1-81, et seq., of the Code.

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

1.14. **Final Completion** means the date certified by Consultant in the Final Certificate of Payment as the date 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, including all Work described in the Punch List, has been fully completed in accordance with the terms and conditions of the Contract Documents.

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

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

1.17. **Plans or Drawings** means the official graphic representations of this Project.

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

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

1.20. **Punch List** means a document developed by Consultant and the Contract Administrator and provided to Contractor simultaneously with, or within thirty (30) to forty-five (45) calendar days after, the issuance of a Certificate of Substantial Completion or Partial Substantial Completion, that lists Work that Contractor has yet to complete or that does not conform to the Contract Documents and that Contractor must complete or correct, as indicated in the document, to satisfy the requirements of this Contract for Final Completion and to make the Work satisfactory and acceptable.

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

1.22. **Subcontractor** means any person, firm, or corporation, including any subconsultant, having a direct contract with Contractor, regardless of tier, to perform all or any portion of the Work described in the Contract Documents, 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 the Contract Administrator in the Contract Administrator's sole discretion and set forth on a Certificate of Substantial Completion, 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. **Supplemental Instructions** means a written order, instruction, or interpretation concerning the Contract Documents or performance of the Work that does not involve a change in the Contract Price or Contract Time.

1.25. **Surety** means the surety company or individual that is bound by the performance bond and payment bond with and for Contractor that 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.

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

## **ARTICLE 2. SCOPE OF WORK**

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

## **ARTICLE 3. CONTRACT TIME**

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

3.2. Time is of the essence for Contractor's performance under this Contract. Contractor must obtain Substantial Completion of the Work within 365 days after the Project Initiation Date specified in the second Notice to Proceed, and Final Completion within 30 days after Substantial Completion.

3.3. Upon failure of Contractor to obtain Substantial Completion within the deadline stated in Section 3.2, as extended by any approved time extensions, Contractor shall pay to County the sum of \$1,340.00 for each day after the deadline for Substantial Completion, as extended by any approved time extensions, until Substantial Completion is obtained. After Substantial

Completion, should Contractor fail to complete the remaining Work and obtain Final Completion within the deadline stated in Section 3.2, as extended by approved time extensions thereof, Contractor shall pay to County the sum of \$940.00 for each day after the deadline for Final Completion, as extended by any approved extensions, until Final Completion is obtained. These amounts are not penalties but are liquidated damages to 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, Final Completion, or both; and (2) both Parties' desire to obviate any question or dispute concerning the amount of said damages and the cost and effect of the failure of Contractor to achieve Substantial Completion, Final Completion, or both, on time. These liquidated damages shall apply separately to each portion of the Project for which a deadline for Substantial Completion, Final Completion, or both, is given. Liquidated damages do not address costs incurred by County or Consultant: (a) due to an audit conducted pursuant to Article 17 of the General Conditions; or (b) in having Consultant administer the construction of the Project beyond the deadlines for Substantial Completion, Final Completion, or both. Contractor is separately responsible to County for the actual costs referenced in (a) and (b) above, pursuant to Section 3.5.

3.4. County may, but is not obligated to, 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.

3.5. Separate and apart from the liquidated damages stated in Section 3.3, Contractor shall also reimburse County for all costs incurred by Consultant in administering the construction of the Project beyond the completion dates specified in Section 3.2, 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. County may, but is not obligated to, deduct such costs 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.

3.6. If County elects not to deduct all or a portion of either the Liquidated Damages or the Consultant costs incurred by County beyond the completion dates, as described in Section 3.5, from other monies due Contractor from County, Contractor must pay the claimed amounts within thirty (30) days after demand by the Contract Administrator.

#### **ARTICLE 4. CONTRACT PRICE**

4.1.  This is a Unit Price Contract:\*

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

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

4.2.  This is a Lump Sum Contract:\*

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

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

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

## 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 on the Project during the preceding interval. Contractor shall, where the Project involves CBE or SBE Subcontractors, make Application for Payment, at monthly intervals, for Work completed on the Project by such Subcontractors during the preceding monthly interval. Contractor's Applications for Payment must show a complete breakdown of the Project components, the quantities completed during the applicable interval, and the amount of payment sought, together with such supporting evidence as may be required by Consultant or the Contract Administrator. At a minimum, Contractor shall submit with each Application for Payment an updated progress schedule acceptable to Consultant as required by the Contract Documents; a completed Form 007500-9, Certification of Payments to Subcontractors; a statement indicating the cumulative amount of CBE or SBE participation to date; and a release of liens and claims relative to the Work that was the subject of any previous Applications for Payment 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, each Application for Payment shall be accompanied by a completed Statement of Compliance form (Form 00922 for Prevailing Wage Rate; or Form 007500-8 for Davis-Bacon Act). The referenced

forms are available at <https://www.broward.org/Purchasing/Pages/StandardTerms.aspx> or upon written request to the Contract Administrator. Each Application for Payment shall be submitted in triplicate to Consultant for approval as follows:

**Noel Rodriguez, PE**  
**Thompson & Associates, Inc.**  
**412 SE 18th Street, Fort Lauderdale, FL 33316**

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 herein and, if approved, payment for the undisputed portion(s) of the Application for Payment shall be due twenty (20) business days after the date on which the Application for Payment is stamped received. At the end of the twenty (20) 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, excepting any portions 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 each deficiency and the action necessary by Contractor to cure each deficiency. If Contractor submits a request that corrects each deficiency, the corrected Application for Payment must be paid or rejected within ten (10) business days after the corrected Application for Payment is stamped as received. Any dispute between County and Contractor shall be communicated in writing and resolved in accordance with the Prompt Payment Ordinance (Section 1-51.6 of the Code), 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. Prior to issuance of the Punch List, County may withhold retainage on each progress payment as set forth in Section 255.078, Florida Statutes, as amended. 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.

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

5.3. Notwithstanding any provision of this Contract to the contrary, County may withhold payment, in whole or in part, in accordance with Applicable Law, as a consequence of

Contractor's material breach of any obligation under the Contract Documents, or to such extent as may be necessary to protect itself from loss on account of any of the following:

- 5.3.1. Inadequate or defective Work not remedied.
- 5.3.2. Claims filed or reasonable evidence indicating probable filing of claims by other parties against Contractor or 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 County for extended construction administration, which may include costs associated with Consultant and/or owner representatives.
- 5.3.6. Failure of Contractor to provide any document(s) required by the Contract Documents.

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

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

6.1. Consultant shall conduct an inspection within ten (10) days after receipt of written notice from Contractor that all Work described in the Punch List has been completed and the Work is ready for final inspection and acceptance. A Final Certificate of Payment (Form 007600-2, available at <https://www.broward.org/Purchasing/Pages/StandardTerms.aspx>) for the Work, or the applicable phase thereof, shall be issued if Consultant and the Contract Administrator find that: (a) the Work is acceptable; (b) the requisite documents have been submitted; (c) the requirements of the Contract Documents are fully satisfied; and (d) all conditions of the permits and regulatory agencies have been met. Such Final Certificate of Payment shall be issued by Consultant, under its signature, stating that the applicable requirements of the Contract Documents have been performed and that the Work is ready for acceptance under the terms and conditions of the Contract Documents.

6.2. Before issuance of the Final Certificate for Payment, Contractor shall deliver to Consultant the following final payment package: a complete release of all claims arising out of this Contract, or receipts in full in lieu thereof; an affidavit certifying that all suppliers and Subcontractors have been paid in full and that all other indebtedness and financial obligations connected with the applicable 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; the final bill of Materials, if required;

and the final Application for Payment. This final payment package must include a completed, sworn, and notarized Final List of Noncertified Subcontractors and Suppliers (Form 07600-4, available at <https://www.broward.org/Purchasing/Pages/StandardTerms.aspx>), with a list of all noncertified Subcontractors and suppliers used attached thereto.

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 any claims by County.

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. Upon receipt of final payment, Contractor shall immediately deliver to County a completed Form of Final Receipt (Form 007600-3, available at <https://www.broward.org/Purchasing/Pages/StandardTerms.aspx>).

#### **ARTICLE 7. REPRESENTATIONS AND WARRANTIES**

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

7.2. Solicitation Representations. Contractor represents and warrants that all statements and representations made in Contractor's proposal, bid, or other supporting documents submitted to 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 and warrants that it has not employed or retained any person or entity, other than a bona fide employee working solely for Contractor, to solicit or secure this Contract, and 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 statute. In addition to the foregoing, Contractor further represents that there has been no determination that it committed a “public entity crime” as defined by Section 287.133, Florida Statutes, and that it has not been formally charged with committing an act defined as a “public entity crime,” regardless of the amount of money involved or whether Contractor has been placed on the convicted vendor list.

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

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

7.7. Verification of Employment Eligibility. Contractor represents that Contractor and each Subcontractor have registered with and use the E-Verify system maintained by the United States Department of Homeland Security to verify the work authorization status of all newly hired employees in compliance with the requirements of Section 448.095, Florida Statutes, and that entry into this Contract will not violate that statute. If Contractor violates this section, County may immediately terminate this Contract 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 Work and that each person and entity that will perform or provide Work is duly qualified to perform such Work by all appropriate governmental authorities, where required, and is sufficiently experienced and skilled in the area(s) for which such person or entity will render such Work. Contractor represents and warrants that the Work shall be performed in a skillful and respectful manner, and that the quality of all such Work shall equal or exceed prevailing industry standards for such Work.

7.9. Truth-In-Negotiation Representation. Contractor’s compensation under this Contract is based upon its representations to 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 may be reduced by County, in its sole discretion, to correct any inaccurate, incomplete, or noncurrent information provided to County as the basis for Contractor's compensation in this Contract.

7.10. Prohibited Telecommunications. Contractor represents and certifies that Contractor and all Subcontractors do not use, and for the duration of the Contract will not provide or use, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, as such terms are used in 48 C.F.R. §§ 52.204-24 through 52.204-26.

7.11. Criminal History Screening Practices. If this Contract is subject to the requirements of Section 26-125(d) of the Code, Contractor represents and certifies that Contractor will comply with Section 26-125(d) of the Code for the duration of the Contract.

7.12. Entities of Foreign Concern. The provisions of this section apply only if this Contract provides access to an individual's personal identifying information. By execution of this Contract, the undersigned authorized representative of Contractor hereby attests under penalty of perjury as follows: Contractor is not owned by the government of a foreign country of concern, is not organized under the laws of nor has its principal place of business in a foreign country of concern, and the government of a foreign country of concern does not have a controlling interest in Contractor; and the undersigned authorized representative of Contractor declares that they have read the foregoing statement and that the facts stated in it are true. Terms used in this section that are not otherwise defined in this Contract shall have the meanings ascribed to such terms in Section 287.138, Florida Statutes.

7.13. Licenses and Certifications. Contractor represents and warrants that it holds, and shall maintain throughout the term of this Contract, all licenses, certifications, permits, and approvals required by Applicable Law to perform the Work. Contractor shall promptly provide copies of such credentials to County upon request and must immediately notify County in writing upon expiration, suspension, or revocation of any such required credential.

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

## **ARTICLE 8. MISCELLANEOUS**

8.1. Contract Documents and Priority of Provisions. If there is 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, if there is any conflict between the terms of the General Conditions included in this Contract and those contained in any Contract Supplement or

Supplemental General Conditions provisions, the terms of such Contract Supplement or Supplemental General Conditions 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.

Notwithstanding the forgoing, if this Contract is identified in the Summary of Terms and Conditions as being subject to Florida Department of Transportation (“FDOT”) provisions, the following priority of provisions shall apply in the event of a conflict:

First Priority:	Approved Change Orders, Addendums, or Amendments
Second Priority:	Technical Specifications
Third Priority:	Contract Supplement and Supplemental General Conditions
Fourth Priority:	General Conditions
Fifth Priority:	Contract
Sixth Priority:	Solicitation documents
Seventh Priority:	Contractor’s response to solicitation documents

8.2. Independent Contractor. Contractor is an independent contractor under this Contract. Work provided by Contractor (and all Subcontractors) 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 primarily or directly 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, and only to the extent this Contract expressly provides Consultant with specific rights or remedies).

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

FOR COUNTY:

Broward County | Water and Wastewater Engineering Division |  
Attn: | Alicia Dunne, PE, PMP |  
| 2555 W. Copans Road, Pompano Beach, Florida 33069 |  
Email address: | adunne@broward.org |

FOR CONTRACTOR:

Southern Underground Industries, Inc.

Belseri Comerford, President

794 S. Military Trail

Deerfield Beach, FL 33442

Email address: bids@southernundergroundindustries.com |

8.5. Subcontracting; Assignment; Change of Control. 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 change of control (as defined herein) shall be deemed an assignment. 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. County reserves the right to condition its approval of any assignment, transfer, encumbrance, or subcontract upon further due diligence and an additional fee paid to County to reasonably compensate it for the performance of any such due diligence.

For purposes of this section, “change of control” means: (a) a transfer of more than fifty percent (50%) of the ownership interests in Contractor, whether in a single transaction or a series of related transactions; (b) a merger, consolidation, or other reorganization that results in a change in voting control in Contractor or in the entity that controls Contractor’s business; or (c) the sale, lease, or transfer of all or substantially all of Contractor’s assets. A change of control does not include (i) a transfer to an entity wholly owned, directly or indirectly, by Contractor or its parent, or (ii) a transfer between existing owners of Contractor that does not result in a change in majority ownership; provided, however, that any such transfer shall not relieve Contractor of its obligations under this Contract unless County expressly agrees otherwise in writing.

8.6. Confidential Information; Generative Artificial Intelligence. Unless expressly authorized in this Contract or in writing in advance by the Contract Administrator, Contractor is strictly prohibited from disclosing, uploading, or otherwise making available to third parties, directly or indirectly, including, but not limited to, through utilization of generative artificial intelligence tools, any exempt, confidential, sensitive security, or personal information of County. Contractor must ensure that any use of generative artificial intelligence tools by Contractor or its Subcontractors does not involve the disclosure of exempt, confidential, sensitive security, or personal information, including without limitation for large language model learning or training. Contractor must implement and maintain appropriate technological and operational safeguards to ensure compliance with the obligations of this section.

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

8.8. 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.

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

8.10. 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 such litigation shall be exclusively in such state courts, forsaking any other jurisdiction that either party may claim by virtue of its residency or other jurisdictional device. **EACH PARTY HEREBY EACH EXPRESSLY WAIVES ANY RIGHTS IT MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS CONTRACT. IF A PARTY FAILS TO WITHDRAW A DEMAND FOR A JURY TRIAL AFTER WRITTEN NOTICE BY THE OTHER PARTY, THE PARTY MAKING THE DEMAND FOR JURY TRIAL SHALL BE LIABLE FOR REASONABLE ATTORNEYS' FEES AND COSTS OF THE OTHER PARTY TO CONTEST THE DEMAND FOR JURY TRIAL, AND SUCH AMOUNTS SHALL BE AWARDED BY THE COURT IN ADJUDICATING THE MOTION. CONTRACTOR, PURSUANT TO ARTICLE 28 OF THE GENERAL CONDITIONS, SHALL SPECIFICALLY BIND ALL SUBCONTRACTORS TO THE PROVISIONS OF THIS SECTION.**

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

8.12. Prior Agreements. 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. All commitments, agreements, and understandings of the Parties concerning the subject matter of this Contract or the Contract Documents are contained herein.

8.13. Compliance with Laws. Contractor and the Work must comply with all Applicable Law, including, but not limited to, the Americans with Disabilities Act, 42 U.S.C. § 12101, Section 504 of the Rehabilitation Act of 1973, and the requirements of any applicable grant agreements, and all deliverables provided for online utilization must meet or exceed the World Wide Web Consortium/Web Content Accessibility Guidelines (WCAG) 2.1 Level AA standard or any higher standard as required by Applicable Law.

8.14. Polystyrene Food Service Articles. Contractor shall not sell or provide for use on County property expanded polystyrene products or food service articles (e.g., Styrofoam), unencapsulated expanded polystyrene products, or single-use plastic straws or stirrers, as set forth in more detail in Section 27.172, Broward County Administrative Code.

8.15. Regulatory Capacity. Notwithstanding the fact that County is a political subdivision with certain regulatory authority, County's performance under this Contract is as a Party to this Contract and not in its regulatory capacity. If County exercises its regulatory authority, the exercise of such authority and the enforcement of Applicable Law shall have occurred pursuant to County's regulatory authority as a governmental body separate and apart from this Contract, and shall not be attributable in any manner to County as a party to this Contract.

8.16. 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 any other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein" refer to the Contract as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a section or article, such reference is to the section or article as a whole, including the subsections thereof, unless the reference is made to a particular subsection or subparagraph of such section or article. Any reference to "days" means calendar days, unless otherwise expressly stated. Any reference to approval by County shall require approval in writing, unless otherwise expressly stated.

8.17. Incorporation by Reference. Any and all Recital clauses stated above are true and correct and are incorporated in this Contract by reference. The attached Exhibits are incorporated into and made a part of this Contract. If Contractor is unable to access any linked form, Contractor may contact the Contract Administrator to obtain a copy of the applicable form. Contractor's inability to electronically access any linked form does not modify or excuse any contract obligation of Contractor. County reserves the right to update linked forms if and to the extent necessary to comply with Applicable Law.

8.18. Funding. The continuation of this Contract beyond the end of any County fiscal year (October 1 through September 30) is subject to both the appropriation and the availability of funds pursuant to Chapter 129 and, if applicable, Chapter 212, Florida Statutes. If amounts to be paid by County under this Contract are budgeted to be funded with transportation surtax proceeds pursuant to Section 212.055(1), Florida Statutes, and such proceeds are not appropriated or available for any reason, County shall have no obligation to use ad valorem funds or any other funding source to make any payment(s) required under this Contract and County may terminate this Contract for convenience pursuant to Article 15.

8.19. Sovereign Immunity. Except to the extent sovereign immunity may be deemed to be waived by entering into this Contract, nothing herein is intended to serve as a waiver of sovereign immunity by County nor shall anything included herein be construed as consent by County to be sued by third parties in any matter arising out of this Contract.

8.20. Multiple Originals and Counterparts. This Contract may be executed in multiple originals or in counterparts, whether signed physically or electronically; each of which shall be deemed to be an original, and all of which, taken together, shall constitute one and the same agreement.

8.21. Iron and Steel Products. If this Contract is for a “public works project” as defined in Section 255.0993, Florida Statutes, then any iron or steel product permanently incorporated in the project must be produced in the United States, unless specifically exempted in writing by the Contract Administrator in accordance with Section 255.0993, Florida Statutes.

8.22. Emergency Response. If this Contract is for goods or services related to emergency response for a natural emergency and Contractor breaches this Contract during an emergency recovery period, as such period is defined in Section 252.505, Florida Statutes, Contractor must pay County a \$5,000 penalty plus damages, which shall be actual and consequential damages or, if expressly stated otherwise in this Contract, liquidated damages, in accordance with Section 252.505, Florida Statutes.

8.23. Anti-Human Trafficking. By execution of this Contract by the undersigned authorized representative of Contractor, Contractor hereby attests under penalty of perjury that Contractor does not use coercion for labor or services, as such terms are defined in Section 787.06, Florida Statutes. Under penalties of perjury, the undersigned authorized representative of Contractor declares that they have read the foregoing statement and that the facts stated in it are true.

8.24. Special Funding Requirements. If the Summary of Terms and Conditions indicates there is any federal or state funding applicable to this Contract, Contractor certifies and represents that it will comply with all applicable terms and conditions of the Standard Grant Agreement between the State of Florida, Department of Commerce (“Commerce”), formerly known as the Florida Department of Economic Opportunity and Broward County (Commerce Grant Agreement MT042), as may be amended (the “Commerce Grant Agreement”) and impose its obligations under the Commerce Grant Agreement on its Subcontractors, specifically or by reference. A copy of the Commerce Grant Agreement, as well as the required Appendix II thereto, is attached to and incorporated herein as Exhibit B.

Section 10 clause of the Commerce Grant Agreement, concerning Section 3 of the Housing and Urban Development Act of 1968, is explicitly included below:

Section 3 Clause

1. The work to be performed under this Contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. § 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by the Department of Housing and Urban Development (“HUD”) assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low income persons, particularly persons who are Subrecipients of HUD assistance for housing.

2. The Parties to this Contract agree to comply with HUD's regulations in 24 CFR part 75, which implement Section 3. As evidenced by their execution of this Contract, the Parties to this Contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 75 regulations.

3. Contractor agrees to send to each labor organization or representative of workers with which Contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of Contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the Work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the Work shall begin.

4. Contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 75, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the Subcontractor is in violation of the regulations in 24 CFR part 75. Contractor will not subcontract with any Subcontractor where Contractor has notice or knowledge that the Subcontractor has been found in violation of the regulations in 24 CFR part 75.

5. Contractor will certify that any vacant employment positions, including training positions, that are filled (1) after Contractor is selected but before the Contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 75 require employment opportunities to be directed, were not filled to circumvent Contractor's obligations under 24 CFR part 75.

6. Noncompliance with HUD's regulations in 24 CFR part 75 may result in sanctions, termination of this Contract for default and debarment or suspension from future HUD assisted contracts.

7. With respect to Work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. § 450e) also applies to the Work to be performed under this Contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this Contract that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

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

[ ]

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement: 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 \_\_\_\_\_, 20\_\_; and Contractor, signing by and through its duly authorized representative.

COUNTY

ATTEST:

BROWARD COUNTY, by and through  
its Board of County Commissioners

By: \_\_\_\_\_  
Broward County Administrator, as  
ex officio Clerk of the Broward County  
Board of County Commissioners

By: \_\_\_\_\_  
Mayor  
\_\_\_\_ day of \_\_\_\_\_, 20\_\_

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

Matthew  
By Haber Digitally signed by  
Matthew Haber  
Date: 2026.02.12  
17:04:18 -05'00'  
Matthew Haber (Date)  
Senior Assistant County Attorney

MICHAEL  
By KERR Digitally signed by  
MICHAEL KERR  
Date: 2026.02.13  
09:17:04 -05'00'  
Michael J. Kerr (Date)  
Chief Counsel

MH/tb  
[PNC2130531C1]  
07/01/2025 |  
#1,186,443

| |

CONTRACTOR

Southern Underground Industries, Inc. |

By: \_\_\_\_\_  
Authorized Signer

Belseri Comerford / President  
Print Name and Title

10th day of February, 2026

WITNESS:

Jessica Abbott  
Signature

Jessica Abbott  
Print Name of Witness above

## CONTRACT SUPPLEMENT

The following deviations are incorporated herein and made a part of this Contract, revising the respective article and section as noted below.

Coding: Words in ~~strike through~~ type are deletions from existing text. Words in underlined text are additions to existing text.

Section 7.10. Prohibited Telecommunications, is hereby revised, by adding the following federally-funded requirements:

7.10. Prohibited Telecommunications and Video Surveillance Services or Equipment. Contractor represents and certifies that Contractor and all Subcontractors do not use, and for the duration of the Contract will not provide or use, any equipment, system, or service that uses covered telecommunications equipment and video surveillance services or equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, as such terms are used in 48 C.F.R. §§ 52.204-24 through 52.204-26 and 2 C.F.R. § 200.216.

Section 8.25. Clean Air Act and the Federal Water Pollution Contract Act Requirements, is hereby added to the Contract.

8.25. Clean Air Act and the Federal Water Pollution Contract Act Requirements. Contractor must comply with all applicable standards, orders or regulations issued pursuant to the Clean Art Act (2 U.S.C. 740-7671) and the Federal Water Pollution Contract Act as amended (33 U.S.C. 1251-3187).

Section 8.26. Byrd Anti-Lobbying Amendment Requirements, is hereby added to the Contract.

8.26. Byrd Anti-Lobbying Amendment Requirements. Contractor must also certify that each Subcontractor certifies to the Contractor that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

Section 8.27. Rights to Inventions Made Under the Contract, is hereby added to the Contract.

8.27. Rights to Inventions Made Under the Contract. If the Contractor or Commerce Agreement No. MT042 meets the definition of "funding agreement" under 37 CFR § 401.2 (a) and Contractor wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," Contractor must comply with the requirements of 37 CFR

Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

Section 8.28. Davis-Bacon Act, as Amended (40 U.S.C. §§ 3141–3148), is hereby added to the Contract.

8.28. Davis-Bacon Act, as Amended (40 U.S.C. §§ 3141–3148). Contractor shall comply in full with the requirements of the Davis-Bacon Act (40 U.S.C. §§ 3141–3144, 3146–3148), as supplemented by U.S. Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). Contractor is responsible for ensuring that all laborers and mechanics employed directly or indirectly on the work are paid wages at rates not less than those specified in the wage determination issued by the U.S. Secretary of Labor for the locality of the project. Contractor shall pay such wages no less frequently than once per week. Contractor shall maintain accurate payroll and related records for all employees performing work under this Contract and shall make such records available to Contract Administrator, the funding agency, and the U.S. Department of Labor upon request. Failure by Contractor to comply with this section shall constitute a material breach of the Contract and may result in suspension of payments, withholding of funds, termination for cause, and/or debarment from future contracts.

Section 8.29. Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701–3708), is hereby added to the Contract.

8.29. Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701–3708). Contractor shall comply with all applicable provisions of the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701–3708), as supplemented by Department of Labor regulations (29 CFR Part 5). Contractor shall ensure that all mechanics and laborers employed under this Contract are compensated on the basis of a standard 40-hour work week. For any hours worked in excess of 40 hours per week, Contractor shall pay not less than one and one-half times the basic rate of pay. Contractor shall not permit any laborer or mechanic to work in surroundings or under conditions that are unsanitary, hazardous, or dangerous to health or safety, as determined under construction safety and health standards promulgated by the Secretary of Labor. Contractor shall be fully responsible for compliance by any Subcontractors and suppliers with these requirements. Violation of this section shall be considered a material breach of the Contract, and County may withhold payment or terminate the Contract for cause.

Section 8.30. Procurement of Recovered Materials, is hereby added to the Contract.

8.30. Procurement of Recovered Materials. Contractor shall comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 6962), and regulations issued thereunder, including EPA guidelines at 40 CFR Part 247. Contractor shall, to the maximum extent practicable and consistent with sound business practices, procure and use products that: contain the highest practicable percentage of

recovered materials; are energy- and water-efficient; are biobased or made from renewable resources; are reusable, refurbishable, or recyclable; and reduce reliance on single-use plastics and non-sustainable materials. Contractor shall provide documentation, upon request, demonstrating compliance with this section, including certification of recycled or recovered material content and sustainable procurement practices. Failure by Contractor to comply with these requirements may result in contract remedies, including withholding of payments, termination for default, or other actions as deemed appropriate by County.

## 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 must be resolved by Consultant prior to applicable Work commencing. Contractor shall not proceed when in doubt as to any dimension or measurement, but shall seek clarification from Consultant in a prompt and timely manner.

### ARTICLE 2. INTENTION OF COUNTY

County intends to describe in this Contract a functionally complete Project (or part thereof) to be constructed in accordance with this Contract and in accordance with all codes and regulations governing construction of the Project. The Work is a description of Contractor's obligations and responsibilities and is deemed to include preliminary considerations and prerequisites, as well as all labor, Materials, equipment, and tasks, that are such an inseparable part of the Work described that exclusion of them from the Work would render performance by Contractor impractical, illogical, or unconscionable, and shall be supplied by Contractor whether or not specifically called for. When words that have a well-known technical or trade meaning are used to describe Work, Materials, or equipment, such words shall be interpreted in accordance with that meaning, unless specified otherwise herein. Reference to standard specifications, manuals, or codes of any technical society, organization, or association, or to the laws or regulations of any governmental authority, whether such reference be specific or by implication, shall mean the latest standard specification, manual, code, laws, or regulations in effect at the time of opening of bids for the Project. Contractor shall comply with such specifications, manuals, codes, laws, or regulations. 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:

- 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, in as much detail as may be requested by County in writing, and that subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during construction.

In addition, after award but prior to the submission of the progress schedule, Consultant, the 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 the Contract Administrator, will be held to discuss the schedules referred to in Section 3.1, to discuss procedures for handling shop drawings and other submittals and for processing Applications for Payment; and to establish a working understanding among the Parties as to the Work.

3.3. Within thirty-five (35) days after the Project Initiation Date set forth in the applicable Notice to Proceed, a conference attended by Contractor, Consultant, and others, as appropriate, will be held to finalize the schedules submitted in accordance with Section 3.1. Within forty-five (45) days after the Project Initiation Date set forth in the applicable Notice to Proceed, Contractor shall revise the original schedule submittal to address all review comments from the progress schedule review conference and resubmit a revised progress schedule to Consultant for review. Consultant’s acceptance of the finalized progress schedule shall only be with respect to the orderly progression of the Work to completion within the Contract Time, but such acceptance shall not constitute acceptance by County or Consultant of the means or methods of construction or of the sequencing or scheduling of the Work. Such acceptance will not impose on Consultant or County responsibility for the progress or scheduling of the Work, or otherwise relieve Contractor from full responsibility therefor. The finalized schedule of shop drawing submissions must be acceptable to Consultant as providing a workable arrangement for processing such submissions. The finalized schedule of values must be acceptable to Consultant as to form and substance.

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

4.1. Within ten (10) days after being notified of the award, Contractor shall furnish a completed Performance Bond (Form 007500-1) and a completed Payment Bond (Form 007500-2) (both available at <https://www.broward.org/Purchasing/Pages/StandardTerms.aspx>). Each bond shall be in the amount of one hundred percent (100%) of the Contract Price guaranteeing to County the completion and performance of the Work covered in such Contract as well as full payment of all suppliers, laborers, and Subcontractors employed pursuant to this Project. Each bond shall be with a surety company that is qualified pursuant to Article 5.

4.2. Each bond shall continue in effect for one (1) year after Final Completion and acceptance of the Work with liability equal to one hundred percent (100%) of the Contract Price, including as modified pursuant to this Contract, 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. If the original bond does not satisfy these requirements, Contractor must provide an additional bond or rider to the extent necessary to satisfy these requirements.

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 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.

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

5.1. For all Bid Bonds, Performance Bonds, and Payment Bonds over \$500,000:

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 the past 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 according to the latest edition of Best’s Insurance Guide, published by AM Best Company, Oldwick, New Jersey:

<b>Amount of Bond</b>	<b>Minimum Policy Holder’s Ratings Strength/Financial Size</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 \$10,000,000</b>	<b>A / IX</b>

5.2. For projects that do not exceed \$500,000.00, County may accept a Bid Bond, Performance Bond, or 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. A completed Certificate and Affidavit for Bonds \$500,000 or Less (Form 007500-4, available at <https://www.broward.org/Purchasing/Pages/StandardTerms.aspx>) must be submitted with the Bid Bond, Performance Bond, or Payment Bond.

5.3. More stringent requirements of any grantor agency may be set forth within the Supplemental General 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, including but not limited to Contractor’s Subcontractors, sub-subcontractors, materialmen, or agents of any tier, or any of their respective employees. To the extent considered necessary by the 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 project are identified in the Minimum Insurance Requirements Exhibit A, 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 insurance requirements stated in Exhibit A, County shall be entitled to all such broader coverages and higher limits. 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 required insurance coverage.

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 shall obtain same in an endorsement on all lines of insurance required of Contractor under this article including any excess or umbrella policies.

7.4. All required insurance policies must be placed with insurers or surplus line carriers authorized to conduct business in the State of Florida with an A.M. Best rating of A- or better and a financial size category class VII or greater, unless otherwise approved by County's Risk Management Division in writing.

7.5. Contractor shall declare in writing any self-insured retentions or deductibles over the limit(s) prescribed in Exhibit A, 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. Any deductible or self-insured retention may be satisfied by either the named insured or County, if so elected by County, and Contractor shall 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 three (3) years from the date of the final completion of the Work, unless otherwise stated in the Insurance Requirements Exhibit. In that case, the term specified in the Insurance Requirements shall govern the duration of the coverage required by this paragraph.

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 to the extent required by Applicable Law, including, but not limited to, the Federal Employer's Liability Act, the Jones Act, and the Longshoreman and Harbor Workers' Compensation Act.

If Contractor provides all or a portion of the Workers' Compensation/Employer's Liability insurance required herein via a professional employer organization ("PEO") or employee leasing company, any such Workers' Compensation/Employer's Liability insurance provided will only be deemed acceptable solely for the purposes of insuring Contractor's enrolled employees. In addition, and notwithstanding the foregoing, in order to adequately protect 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 \$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 that does not exceed five percent (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 \$\_\_\_\_\_ per occurrence. With respect to the peril of Flood, the policy shall not be subject to any sublimit less than \$\_\_\_\_\_ 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 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 this Project, then in that case, the insurance required to be carried by Contractor may be modified to account for the insurance being provided by County, at County's discretion. Such modification may also include execution of Waiver of Subrogation documentation. If a claim with respect to this Project is made upon County's insurance policy, Contractor shall be responsible for up to the first \$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, as requested by County, 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 remain in full force and effect without any lapse in coverage for the duration of this Contract and until all performance required of Contractor has been completed, as determined by the 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).

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 Work provided by that Subcontractor on substantially the same insurance terms and conditions required of Contractor under this article. Contractor shall ensure that all

such Subcontractors comply with these requirements and that "Broward County" and Consultant are named as additional insureds under the Subcontractors' applicable insurance policies. If Contractor or any Subcontractor fails to maintain the insurance required by the Contract Documents, 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 article.

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 A; and (3) if coverage is canceled or nonrenewed and is not replaced with another claims-made policy form with a retroactive date prior to the effective date of the Contract, Contractor must obtain and maintain "extended reporting" coverage that applies after termination or expiration of the Contract for at least the duration stated in Exhibit A.

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

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

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

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

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

#### **ARTICLE 10. WEATHER**

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

## **ARTICLE 11. PERMITS, LICENSES, AND IMPACT FEES**

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

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

## **ARTICLE 12. RESOLUTION OF DISPUTES**

12.1. To prevent all disputes and litigation, the Parties agree that Consultant shall decide all questions, claims, difficulties, and disputes of whatever nature that may arise relative to the technical interpretation of the Contract Documents or fulfillment of the Contract as to the character, quality, amount, and value of any Work done or Materials furnished, or proposed to be done or furnished, under or by reason of the Contract Documents, and Consultant's decisions of all claims, questions, difficulties, and disputes shall be final and binding to the extent provided in Section 12.2. Any claim, question, difficulty, or dispute that cannot be resolved by agreement of the Contract Administrator and Contractor shall be submitted by either party 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 the Contract Administrator shall act in good faith to mitigate any potential damages, including utilization of construction schedule changes and alternative means of construction.

12.2. If the determination of a dispute under this article is unacceptable to either party, the party objecting to the determination must notify the other party in writing within ten (10) days after receipt of the written determination. The notice must state the basis of the objection and must be accompanied by a statement that any Contract Time or Contract Price adjustment claimed is the entire adjustment to which the objecting party has reason to believe it is entitled to as a result of the determination. Within sixty (60) days after Final Completion of the Work, the Parties shall participate in mediation to address all objections to any determinations and to attempt to prevent litigation. Neither party shall commence litigation prior to the expiration of

the sixty (60) day mediation period. The mediator shall be mutually agreed upon by the Parties. Should any objection not be resolved in mediation, the Parties retain all their legal rights and remedies provided under State law. **A PARTY SPECIFICALLY WAIVES ALL OF ITS RIGHTS, INCLUDING, BUT NOT LIMITED TO, CLAIMS FOR CONTRACT TIME AND CONTRACT PRICE ADJUSTMENTS PROVIDED IN THE CONTRACT, INCLUDING ITS RIGHTS AND REMEDIES UNDER STATE LAW, IF SAID PARTY FAILS TO COMPLY IN STRICT ACCORDANCE WITH THE REQUIREMENTS OF THIS ARTICLE.**

12.3. In any lawsuit or legal proceeding arising under this Contract, Contractor hereby waives any claim or defense based on facts or evidentiary materials of which Contractor had knowledge but did not present for consideration during the resolution of disputes process set forth in Sections 12.1 and 12.2 above.

12.4. This article shall survive any dispute or litigation between the Parties, or expiration or termination of this Contract for any reason, and Contractor expressly acknowledges and agrees to be bound by this article throughout the course of any dispute or litigation with County.

### **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, or Applicable Law require any of the Work to be specially tested or approved, Contractor shall give Consultant timely notice of readiness of the Work for testing. If the testing or approval is to be made by an authority other than 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, 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;

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

15.1.8. Suspension or debarment of Contractor by a state or governmental entity or by a local governmental entity with a population of more than one million people.

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 the services of Contractor, exclude Contractor from the Project site and take the performance of the Work out of the hands of Contractor, and appropriate or use any or all Materials and equipment on the Project site as may be suitable and acceptable. In such case, Contractor shall not be entitled to receive any further payment until the Project is completed. In addition, 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. If the damages and expenses so incurred by County exceed the unpaid balance, Contractor shall be liable and shall pay to County the amount of said excess.

15.3. Unless otherwise stated in this Contract, if this Contract was approved by Board action, termination for cause by County must be by action of the Board or the County Administrator; in any other instance, termination for cause may be by the County Administrator, the County representative expressly authorized under this Contract, or the County representative (including any successor) who executed the Contract on behalf of County. If County erroneously,

improperly, or unjustifiably terminates for cause, 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 Section 15.4 below.

15.4. This Contract may be terminated for convenience, for any reason or no reason, by action of the Board upon at least ten (10) days' advance written notice to Contractor (delivered by certified mail, return receipt requested) of County's intent to terminate and the date on which such termination shall be effective. If this Contract is terminated by County pursuant to this section, Contractor shall be paid for all Work properly 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 Contract for convenience including in the form of County's obligation to provide advance written notice to Contractor of such termination in accordance with this Section 15.4.

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

15.5.1. 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;

15.5.2. 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;

15.5.3. 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;

15.5.4. 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;

15.5.5. 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

15.5.6. If Contractor is a "scrutinized company" pursuant to Sections 215.473 or 215.4725, Florida Statutes, if Contractor is placed on a "discriminatory vendor list" pursuant to Section 287.134, Florida Statutes, or if Contractor is otherwise ineligible to

transact business with County under Applicable Law or provides a false certification submitted pursuant to Section 287.135, Florida Statutes.

15.6. Upon receipt of a notice of termination pursuant to Sections 15.2, 15.4, or 15.5, 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.

#### **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 and all Subcontractors shall preserve all Contract Records (as defined below) for a minimum period of six (6) years after expiration or termination of this Contract or until resolution of any audit findings, whichever is longer. This article shall survive any dispute or litigation between the Parties, and Contractor expressly acknowledges and agrees to be bound by this article throughout the course of any dispute or litigation with County. 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 six (6) years after the expiration or termination of this Contract (or longer if required by Applicable 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.

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 workspace 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. Contractor shall make all Contract Records available electronically, in common file formats, and/or via remote access, if and to the extent requested by County.

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

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

In addition to the normal documentation Contractor typically furnishes to 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 reimbursable job costs (Subcontractor payment applications, vendor invoices, internal cost charges, etc.)	.pdf

17.3. Contractor shall, by written contract, require all 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. Contractor shall refund to County any overcharged amount identified as a result of an audit, regardless of the amount of the overcharge. If the overcharge exceeds five percent (5%) of the total contract charges audited by County, in addition to refunding the overcharged amount, Contractor shall pay liquidated damages in the amount of fifteen percent (15%) of the overcharged amount as just compensation for damages incurred by County due to the overcharge, including, but not limited to, County's administrative costs and loss of potential investment returns (including interest). Any adjustments or payments due as a result of any such audit must be made within thirty (30) days after 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 Contract Price, or the Contract Time, or both. If Contract Administrator and Contractor cannot agree on an adjustment in the Contract Price or Contract Time, the adjustment shall be referred to Consultant for determination in accordance with the provisions of Article 12. No request by Contractor for an equitable adjustment to this Contract under this provision shall be allowed unless Contractor has given written notice to Contract Administrator in strict accordance with the provisions of this article. **No request for an equitable adjustment or change to the Contract Price or Contract Time for differing site conditions shall be allowed if made after the date certified by Contract Administrator as the date of Substantial Completion.**

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

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 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 in accordance with this article.

#### **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. If 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. Pursuant to Section 558.005(1), Florida Statutes, the Parties agree to opt out of the requirements of Section 558.005, Florida Statutes.

26.5. 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 Applicable Law. Contractor is responsible for reviewing the pertinent state statutes involving state taxes and complying with all their requirements.

#### **ARTICLE 28. SUBCONTRACTS**

28.1. Each Subcontractor must possess certificates of competency and licenses required by Applicable Law. Contractor shall notify the Contract Administrator and Consultant of any change in Subcontractors.

28.2. Contractor shall not employ any Subcontractor against whom 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 fifty percent (50%) of the Contract Price.

#### **ARTICLE 29. SEPARATE CONTRACTS**

29.1. County has the right to enter into contracts with other parties in connection with this Project. Contractor shall afford such other parties reasonable opportunity for the introduction and storage of their materials and the execution of their work, and shall properly connect and coordinate this Work with theirs.

29.2. If any part of Contractor's Work depends on 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 the Project ("Designated Area"). Such possession and use shall not be deemed an acceptance of any of the Work not completed in accordance with this Contract. If such possession and use increase the cost of or delays the Work, Contractor shall be entitled to reasonable extra compensation or a reasonable extension of time, or both, as recommended by Consultant and approved by County.

30.2. If 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 Law with regard to labor, hours of work, and Contractor's operations. Contractor shall conduct its operations so as not to close any thoroughfare, nor interfere in any way with traffic on railway, highways, or water, without the written consent of the proper authorities.

### **ARTICLE 33. LOCATION AND DAMAGE TO EXISTING FACILITIES, EQUIPMENT, OR UTILITIES**

33.1. Utility lines in the Project area have been shown on the Plans. However, 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 compensation 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 compensation from County for utility relocations or support activities, regardless of the reason for relocation or support activities. In the event that a utility relocation or support activity extends the completion of the Work and is caused by circumstances beyond the control of Contractor or its Subcontractors, suppliers, or vendors, Contractor will be entitled to additional Contract Time as non-compensable, excusable delay, and such event shall not give rise to a claim by Contractor for compensable excusable delay.

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.

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 the Contract Price by making such request to Consultant in writing. Consultant will be the sole judge of the acceptability of any proposed substitute, and no substitute will be ordered, installed, used, or initiated without Consultant's prior written acceptance by a Change Order or an approved shop drawing. In no event will any substitution accepted by Consultant result in an increase in the Contract Price or Contract Time. By making a request for substitution, Contractor agrees to pay directly to Consultant all Consultant's fees and charges related to Consultant's review of the request for substitution, regardless of whether the request for substitution is accepted by Consultant. Any substitution submitted by Contractor must meet the form, fit, function, and life cycle criteria of the item proposed to be replaced, and there must be a reduction in Contract Price including Consultant review fees and charges. Unless otherwise indicated in the relevant Change Order, if a substitution is approved, the net dollar savings shall be shared equally between Contractor and County and 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 the Contract Documents, the expense of all tests shall be borne by County and be performed by a testing firm selected by County. Contractor is responsible for reimbursement to County the costs of any required test in which the tested Work fails. 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.

#### **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 this Project must be accomplished by means of appropriate Field Orders and Supplemental Instructions or Change Orders.

36.2. Any changes to the terms of this Contract must be contained in a written document, executed by the Parties hereto, with the same formality and of equal dignity as this Contract prior to the initiation of any Work described in such change. This section shall not prohibit the issuance of Change Orders executed only by 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 and ordering minor changes in the Work. Field Orders may not change the Contract Price or the Contract Time.

37.2. Consultant shall have the right to approve and issue Supplemental Instructions setting forth written orders, instructions, or interpretations concerning the Contract Documents or performance of the Work. Supplemental Instructions may not change the Contract Price or the Contract Time.

#### **ARTICLE 38. CHANGE ORDERS**

38.1. Changes in the quantity or character of the Work within the scope of the Project that cannot be accomplished by means of Field Orders or Supplemental Instructions, including all changes resulting in changes to the Contract Price or the Contract Time, shall be authorized only by Change Orders approved in advance and issued in accordance with the provisions of the Broward County Procurement Code, as amended.

38.2. If County receives from Contractor a Change Order proposal for construction services requested in writing by County, and the Change Order proposal conforms to all statutory requirements and all requirements set forth by this Contract, County shall approve or deny the Change Order proposal and send written notice of that decision to Contractor within 35 days after receipt of such Change Order proposal. If County denies a Change Order proposal due to deficiencies in the Change Order proposal, County shall identify the Change Order proposal's deficiencies and identify the actions necessary to remedy those deficiencies. In addition to any other bases to not issue a Change Order provided for by this Contract, County may deny a Change

Order proposal if and to the extent the Contract Administrator determines procuring the additional or changed work is not in the best interests of the County.

38.3. Contractor shall not start work on any changes requiring an increase in the Contract Price or the Contract Time until a Change Order setting forth the adjustments is approved by County. Upon receipt of a Change Order, Contractor shall promptly proceed with the Work set forth in the Change Order.

38.4. If satisfactory adjustment cannot be reached for any item requiring a change in the Contract Price or Contract Time, and a Change Order has not already been issued, County may, at its sole option, terminate this Contract as it applies to the items in question and make such arrangements as County deems necessary to complete the work associated with the disputed item, submit the matter in dispute to Consultant as set forth in Article 12, or issue a Change Order unilaterally in accordance with Section 38.5.

38.5. 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 Contract Price or Contract Time.

38.6. On approval of any Contract change increasing the Contract Price, Contractor shall promptly ensure that the performance bond and payment bond are increased so that each reflects the total Contract Price as increased. Contractor will promptly provide County such updated bonds.

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

39.1. The value of any Work covered by a Change Order or of any claim for an increase or decrease in the Contract Price shall be determined in one of the following ways:

39.1.1. If the Work involved is covered by unit prices contained in this Contract, by application of unit prices to the quantities of items involved, subject to the provisions of Section 39.7.

39.1.2. By mutual acceptance of a lump sum, which sum Contractor and County acknowledge contains a component for overhead and profit, subject to the provisions of Section 39.8.

39.1.3. On the basis of the "Cost of Work," determined as provided in Sections 39.2 and 39.3, plus a Contractor's fee for overhead and profit as determined in Section 39.4.

39.2. The term "Cost of Work" means the sum of all direct costs necessarily incurred and paid by Contractor (or, if applicable, Subcontractor) in the proper performance of the Work described





39.4.1. A mutually acceptable fixed fee, or if no fixed fee can be agreed upon, then;

39.4.2. A fee based on the following percentages of the various portions of the cost of the Work:

39.4.2.1. For costs incurred under subsections 39.2.1 and 39.2.2, Contractor's fee shall not exceed ten percent (10%).

39.4.2.2. For costs incurred under subsection 39.2.3, Contractor's fee shall not exceed seven and one-half percent (7.5%); and if a subcontract is on the basis of cost of the work plus a fee, the maximum allowable to the Subcontractor as a fee for overhead and profit shall not exceed ten percent (10%); and

39.4.2.3. No fee shall be payable on the basis of costs itemized under subsections 39.2.4 and 39.2.5 (except subsection 39.2.5.3) and Section 39.3.

39.5. The amount of credit to County for any change that results in a net decrease in cost will be the amount of the actual net decrease. When both additions and credits are involved in any one change, the combined overhead and profit shall be figured on the basis of the net increase, if any. Contractor shall not be entitled to claim lost profits for any Work not performed.

39.6. Whenever the cost of any Work is to be determined pursuant to Sections 39.1.3, 39.2, and 39.3, Contractor will submit in a form acceptable to Consultant an itemized cost breakdown together with the supporting data.

39.7. If the quantity of any item of the Work covered by a unit price is increased or decreased by more than twenty percent (20%) from the quantity of such Work indicated in this Contract, an appropriate Change Order shall be issued to adjust the unit price, if warranted.

39.8. Whenever a change in the Work is to be based on mutual acceptance of a lump sum, whether the amount is an addition, credit, or no change-in-cost, Contractor shall submit an initial cost estimate acceptable to Consultant and Contract Administrator.

39.8.1. Such cost estimate shall include a breakdown listing the quantities and unit prices for Materials, labor, equipment, and other items of cost.

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

39.9. Each Change Order must state within the body of the Change Order whether it is based upon unit price, negotiated lump sum, or "Cost of Work."

**ARTICLE 40. NOTIFICATION AND CLAIM FOR CHANGE OF  
CONTRACT TIME OR CONTRACT PRICE**

40.1. Any claim for a change in the Contract Time or Contract Price shall be made by written notice by Contractor to the Contract Administrator and to Consultant within five (5) days after the commencement of the event giving rise to the claim or Contractor's knowledge of the claim, and the notice shall state the specific date the event commenced, the date Contractor became aware of the event, and 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"). Termination of the event giving rise to the claim shall mean the earlier of the date that the event ends (e.g., weather event) or the date that Contractor has the necessary information, direction, or solution to allow the Contractor to proceed with the Work. 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 of the event giving rise to the claim. The Claim Notice shall also identify the date Contractor first provided written notice of the event to the Contract Administrator and Consultant. If the Contract Administrator and Contractor cannot resolve a claim for changes in the Contract Time or Contract Price within twenty (20) days after receipt of the Claim Notice by the Contract Administrator and Consultant, then Contractor shall submit the claim to Consultant within five (5) days after the date of impasse in accordance with Article 12 hereof. **IT IS EXPRESSLY AND SPECIFICALLY AGREED THAT ANY AND ALL CLAIMS FOR CHANGES TO THE CONTRACT TIME OR CONTRACT PRICE SHALL BE WAIVED IF NOT SUBMITTED IN STRICT ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION.**

40.2. The Contract Time will be extended in an amount equal to time lost on critical Work items due to delays beyond the control of and through no fault or negligence of Contractor if a claim for an extension is made in accordance with Section 40.1. Such delays shall include, but not be limited to, acts, omissions, or neglect by any separate contractor employed by 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 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 Contract Time as the sole and exclusive remedy for such resulting delay, in accordance with and to the extent specifically provided above; provided, however, that this provision shall not preclude recovery of damages by Contractor for

actual delays due solely to fraud, bad faith, or active interference on the part of 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 Contract Time for each day the Work is delayed due to Excusable Delay. Contractor shall document its claim for any time extension as provided in Article 40 hereof. Failure of Contractor to comply with Article 40 hereof as to any particular event of delay shall be deemed conclusively to constitute a waiver, abandonment, or relinquishment of any and all claims resulting from that particular event of delay. Excusable Delay may be compensable or non-compensable, as provided below.

42.1.1. Compensable Excusable Delay. Excusable Delay is compensable when (a) the delay extends the Contract Time; (b) is caused by circumstances beyond the control of Contractor or its Subcontractors, suppliers, or vendors; and (c) 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 Contract Time. Contractor shall be entitled to direct and indirect costs for Compensable Excusable Delay. Direct costs recoverable by Contractor shall be limited to the actual additional costs allowed pursuant to Article 39 hereof.

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 Contract Time is delayed due to a Compensable Excusable Delay. These liquidated indirect costs shall be paid to compensate Contractor for all indirect costs caused by a Compensable Excusable Delay, and shall include, but not be limited to, lost profits, all profit on indirect costs, home office overhead, acceleration, loss of earnings, loss of productivity, loss of bonding capacity, loss of opportunity and all other indirect costs incurred by Contractor. The amount of liquidated indirect costs recoverable shall be \$500.00 per day for each day this Contract is delayed due to a Compensable Excusable Delay.

42.1.2. Non-Compensable Excusable Delay. When Excusable Delay is (a) caused by circumstances beyond the control of Contractor, its Subcontractors, suppliers, and vendors; (b) caused by circumstances beyond the control of County or Consultant; or (c) 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

43.1. 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 007600-1, available at <https://www.broward.org/Purchasing/Pages/StandardTerms.aspx>). 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.

43.2. The provision indicated below applies based upon the estimated cost of the Project (only the checked provision applies):

43.2.1.  **Less than \$10,000,000:** Consultant and the Contract Administrator shall develop, and Contractor shall review, the Punch List within thirty (30) calendar days after the issuance of the Certificate of Substantial Completion.

43.2.2.  **Equal to or greater than \$10,000,000:** Consultant and the Contract Administrator shall develop, and Contractor shall review, the Punch List within forty-five (45) calendar days after the issuance of the Certificate of Substantial Completion.

43.3. The Punch List shall describe all Work yet to be completed by Contractor, including the estimated cost to complete each item of Work on the Punch List, to satisfy the requirements of this Contract for Final Completion and to make the Work satisfactory and acceptable. The Punch List shall be provided to Contractor within five (5) days after final development and review. If the final Punch List is not provided within the stated five (5) days, the Contract Time for completion shall be extended by the number of days exceeding the five (5) days. The failure to include any items of corrective Work or remaining Work on such Punch List does not alter the responsibility of Contractor to complete all Work in accordance with this Contract. Warranties required by this Contract shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion. The Certificate of Substantial Completion shall be submitted to the Contract Administrator and Contractor for their written acceptance of the responsibilities assigned to them in the Certificate of Substantial Completion. Nothing herein precludes County from including the Punch List on the Certificate of Substantial Completion at the time of issuing the Certificate of Substantial Completion.

43.4. The process for developing the estimated cost of each item of Work on the Punch List shall use the following methodology or methodologies (select all that apply):

Direct costs

- Prorated value of outstanding Work based on Contractor's original Schedule of Values
- Unit prices provided in the bid
- Labor costs per hour
- Per square foot of site area
- Per assembly
- Historical and current prices for similar work
- Industry cost database(s)
- Other: \_\_\_\_\_.

#### **ARTICLE 44. NO INTEREST**

44.1. Unless prohibited by Applicable Law, County shall not be liable to pay any interest to Contractor for any reason, whether as prejudgment interest or for any other purpose, and Contractor waives, rejects, disclaims and surrenders any and all entitlement to interest in connection with a dispute or claim arising from, related to, or in connection with this Contract.

44.2. If the preceding section is inapplicable or is determined to be invalid or unenforceable by a court of competent jurisdiction, the annual rate of interest payable by 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 second 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 and 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 after the date received, unless said shop drawings are rejected by Consultant for material reasons. Consultant's approval of shop drawings will be general and shall not relieve Contractor of responsibility for the accuracy of such shop drawings, nor for the proper fitting and construction of the Work, nor for the furnishing of Materials or Work required by this Contract but not indicated on the shop drawings. No Work called for by shop drawings shall be performed until the said shop drawings have been approved by Consultant. Approval by Consultant shall not relieve Contractor from responsibility for errors or omissions of any sort on the shop drawings.

45.7. No approval will be given to partial submittals of shop drawings for items that interconnect or are interdependent where necessary to properly evaluate the design. It is Contractor's responsibility to assemble the shop drawings for all such interconnecting or interdependent items, check such items, and then make one submittal to Consultant along with Contractor's comments as to compliance, noncompliance, or features requiring special attention.

45.8. If catalog sheets or prints of manufacturers' standard drawings are submitted as shop drawings, any additional information or changes on such drawings shall be typewritten or lettered in ink.

45.9. Contractor shall submit the number of copies of shop drawings required by Consultant. Resubmissions of shop drawings shall be made in the same quantity until final approval is obtained.

45.10. Contractor shall keep one set of shop drawings marked with Consultant's approval at the job site at all times.

#### **ARTICLE 46. FIELD LAYOUT OF THE WORK AND RECORD DRAWINGS**

46.1. The entire responsibility for establishing and maintaining line and grade in the field lies with Contractor. Contractor shall maintain an accurate and precise record of the location and elevation of all pipelines, conduits, structures, maintenance access structures, handholes, fittings and the like, and shall prepare record or "as-built" drawings of the same, which must be sealed by a Professional Surveyor. Contractor shall deliver these records in good order to Consultant as the Work is completed. The cost of all such field layout and recording work is included in the bid

prices for the appropriate items. All record drawings shall be made on reproducible paper and shall be delivered to Consultant prior to, and as a condition of, final payment.

46.2. Contractor shall maintain in a safe place at the Project site one record copy of all Drawings, Plans, Specifications, Addenda, written amendments, Change Orders, Field Orders and written interpretations and clarifications in good order and annotated to show all changes made during construction. These record documents together with all approved samples and a counterpart of all approved shop drawings shall be available at all times to Consultant for reference. Upon Final Completion of the Project and prior to Final Payment, these record documents, samples, and shop drawings shall be delivered to the Contract Administrator.

46.3. Prior to, and as a condition precedent to Final Payment, Contractor shall submit to 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 Law of any public body having jurisdiction for the safety of persons or property or to protect person or property from damage, injury, or loss, and Contractor shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify owners of adjacent property and utilities when performance of the Work may affect them. All damage, injury, or loss to any property referred to in subsections 47.1.2 and 47.1.3 above, caused directly or indirectly, in whole or in part, by Contractor, any Subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, shall be repaired or remedied by Contractor. Contractor's duties and responsibilities for the safety and protection of the Work shall continue until such time as all the Work is completed and Consultant has issued a notice to 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 Contract item.

#### **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 and legally required, including pursuant to Section 489.1132, Florida Statutes, 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 Contract Time as non-compensable, excusable delay, and shall not give rise to a claim for compensable delay.

51.4. When a tower crane or mobile crane is located on the Project site, Contractor shall prepare, and maintain at the Project site for inspection, a hurricane preparedness plan.

## **ARTICLE 52. REMOVAL OF EQUIPMENT**

In case of termination of this Contract before completion for any cause whatsoever, Contractor, if notified to do so by 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. RESERVED**

RESERVED..

## **ARTICLE 54. EQUAL EMPLOYMENT OPPORTUNITY AND CBE/SBE COMPLIANCE**

54.1. Contractor and Subcontractors shall not discriminate on the basis of race, color, sex, religion, national origin, disability, age, marital status, political affiliation, pregnancy, or any other basis prohibited by Applicable Law in the performance of this Contract, except that any project assisted by 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. The Contract Administrator may withhold progress payments if Contractor fails to demonstrate timely payments of sums due to all Subcontractors and suppliers. The presence of a "pay when paid" provision in a Contractor's contract with a CBE or SBE firm shall not preclude County or its representatives from inquiring into claims of nonpayment.

## **ARTICLE 55. PUBLIC RECORDS**

Notwithstanding any other provision in this Contract, any action taken by County in compliance with, or in a good faith attempt to comply with, the requirements of Chapter 119, Florida Statutes, shall not constitute a breach of this Contract. If Contractor is acting on behalf of County as provided in Section 119.0701, Florida Statutes, Contractor shall:

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

55.2. 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 Applicable Law;

55.3. Ensure that public records that are exempt or confidential and exempt from public record requirements are not disclosed except as authorized by Applicable Law for the duration of this Contract and after completion or termination of this Contract if the records are not transferred to County; and

55.4. 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 requirements of Applicable Law 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.

If Contractor receives a request for public records regarding this Contract or the Work, Contractor must immediately notify the Contract Administrator in writing and provide all requested records to County to enable County to timely respond to the public records request. County will respond to all such public records requests.

Contractor must separately submit and conspicuously label as “RESTRICTED MATERIAL – DO NOT PRODUCE” any material (a) that Contractor contends constitutes or contains its trade secrets under Chapter 688, Florida Statutes, or (b) for which Contractor asserts a right to withhold from public disclosure as confidential or otherwise exempt from production under Florida public records laws (including Chapter 119, Florida Statutes) (collectively, “Restricted Material”). In addition, Contractor must, simultaneous with the submission of any Restricted Material, provide a sworn declaration or affidavit in a form acceptable to County from a person with personal knowledge attesting that the Restricted Material constitutes trade secrets or is otherwise exempt or confidential under Florida public records laws, including citing the applicable Florida statute and specifying the factual basis for each such claim. Upon request by County, Contractor must promptly identify the specific applicable statutory section that protects any particular document. If a third party submits a request to County for records designated by Contractor as Restricted Material, County shall refrain from disclosing such material unless otherwise ordered by a court of competent jurisdiction, authorized in writing by Contractor, or the claimed exemption is waived. Any failure by Contractor to strictly comply with the requirements of this section shall constitute Contractor’s waiver of County’s obligation to treat the records as Restricted Material. Contractor must indemnify and hold harmless 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 nondisclosure of Restricted Material in response to a third-party request.

**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 954-831-0741, CATAYLOR@BROWARD.ORG, 2555 WEST COPANS RD,  
POMPANO BEACH, FL, 33069.**

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

## SUPPLEMENTAL GENERAL CONDITIONS

The following deviations are incorporated herein and made a part of this Contract, revising the respective article and section as noted below.

Coding: Words in ~~striketrough~~ type are deletions from existing text. Words in underlined text are additions to existing text.

Article 8. Labor and Materials, the General Conditions is hereby revised, by adding the following Section:

8.3. Contractor must comply with the requirements contained in the Post Federal Award Requirements Procurement Standards "Domestic Preference for Procurements" Section (2 CFR § 200.322) and the "Procurement of Recovered Materials" Section (2 CFR § 200.323).

Article 54. Equal Employment Opportunity and CBE/SBE Compliance of the General Conditions is hereby revised by adding the following Sections:

54.3. County has obtained grant funding from the United States government or its departments or agencies to support the Work under this Contract. Contractor agrees that in the event the United States government or its departments or agencies, requires changes or additions to this Contract as a condition of the grant or as a result of a change in United States policy, the Contractor shall consent to such amendments, modifications, revisions, supplements, or deletions of any of the terms, conditions, or requirements of this Contract.

54.4. During the performance of this Contract, Contractor agrees to 41 C.F.R. § 60-1.4 as follows:

54.4.1. Contractor will not discriminate against any employee or applicant for employment because of race, color, sex, religion, national origin, disability, age, marital status, political affiliation, pregnancy, or any other basis prohibited by Applicable Law. Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, sex, religion, national origin, disability, age, marital status, political affiliation, pregnancy, or any other basis prohibited by Applicable Law. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

54.4.2. Contractor will, in all solicitations or advertisements for employees placed by or on behalf of Contractor, state that all qualified applicants will receive consideration for

employment without regard to race, color, sex, religion, national origin, disability, age, marital status, political affiliation, pregnancy, or any other basis prohibited by Applicable Law.

54.4.3. Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with Contractor's legal duty to furnish information.

54.4.4. Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

54.4.5. Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

54.4.6. Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

54.4.7. In the event of Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and Contractor may be declared ineligible for further government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

54.4.8. Contractor will the provisions of this Section 54.4 in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each Subcontractor or vendor. Contractor will take such

action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a Subcontractor or vendor as a result of such direction by the administering agency, Contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the Contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a Contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

Article 55. Public Records of the General Conditions is hereby revised by adding the following:

Contractor shall make available to County, the U.S. Department of Housing and Urban Development (HUD), or any pass-through entity, upon request, all procurement documentation related to this Contract, including but not limited to independent cost estimates, cost or price

analyses, evaluations, and any records necessary to verify compliance with applicable procurement standards and Federal requirements. Contractor shall fully cooperate with any pre-procurement, post-award, or other compliance review or audit conducted by County, HUD, the pass-through entity, or their authorized representatives, and shall promptly provide access to personnel, records, reports, and other documentation requested in connection with such reviews or audits. Contractor shall maintain all records, documents, and supporting materials related to this Contract for a minimum period of six (6) years after County formally closes out the applicable grant award, unless a longer period is otherwise required by law, regulation, or the grant agreement. Failure by Contractor to comply with the requirements of this section, including failure to provide timely access to requested documentation or failure to retain records as required, shall constitute a material breach of the Contract and may result in suspension of payments, withholding of funds, contract termination for cause, disallowance of costs, and/or other remedies as determined by County or HUD.

## SUPPLEMENTAL WAGE REQUIREMENTS

Select box and complete blanks if applicable; see also HB 433 (2024).

1.  Prevailing Wage Rate Ordinance - This Project is not federally or state-funded and is not a public works project as defined in Section 255.0992, Florida Statutes. If the price of this Contract is in excess of \$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. If 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 Code, 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. Contractor and its Sureties shall be liable to County for any and 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 records 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" (Form 00922, available at <https://www.broward.org/Purchasing/Pages/StandardTerms.aspx>), attesting to compliance with the Prevailing Wage Ordinance, Section 26-5 of the Code, 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.

2.  Federal Grant Projects:

2.1. Because this Project will be funded, in whole or in part, by the United States government through the U.S. Department of Housing and Urban Development, and through Community Development Block Grant–Mitigation (CDBG-MIT) via the State of Florida, Department of Commerce and referred to as Mitigation Program (CDBG-MIT), Commerce Agreement No. MT042, all Federal assurances applicable to such funding, including any and all supervening assurances set forth in Rules and Regulations published in Federal Register or C.F.R., shall apply to this Contract.

2.2. Accordingly, all clauses, terms, or conditions required by federal grantor agency with respect to the federal funding for this Project are hereby attached and made a part of this Contract.

2.3. Specifically, Contractor must comply with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”), the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”), and with 40 U.S.C. 3702 and 3704, as supplemented by the Department of Labor regulations (29 CFR Part 5). **[ATTACH RELEVANT DOCUMENTS IF SECTION 2 IS CHECKED]**

"General Decision Number: FL20250107 04/04/2025

Superseded General Decision Number: FL20240107

State: Florida

Construction Type: Heavy

County: Broward County in Florida.

HEAVY CONSTRUCTION PROJECTS (Including Sewer and Water Lines)

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(1).

<p>If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:</p>	<p>. Executive Order 14026 generally applies to the contract.</p> <p>The contractor must pay all covered workers at least \$17.75 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2025.</p>
<p>If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:</p>	<p>. Executive Order 13658 generally applies to the contract.</p> <p>The contractor must pay all covered workers at least \$13.30 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2025.</p>

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this

wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at <http://www.dol.gov/whd/govcontracts>.

Modification Number	Publication Date
0	01/03/2025
1	04/04/2025

\* ELEC0728-006 03/01/2025

	Rates	Fringes
ELECTRICIAN.....	\$ 40.25	15.20
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ENGI0487-023 07/01/2023		

	Rates	Fringes
OPERATOR: Crane		
All Cranes 75 Tons and below.....	\$ 37.07	14.90
All Cranes Over 300 Ton, Electric Tower, Luffing Boom Cranes.....	\$ 40.40	14.90
Cranes 130-300 Ton.....	\$ 39.38	14.90
Cranes 76 ton to 129 Ton....	\$ 37.57	14.90
-----		
ENGI0487-026 07/01/2023		

	Rates	Fringes
OPERATOR: Drill		
Drill Rig, Truck Mounted, Sterling Class.....	\$ 27.00	14.90
Drill Rig, Truck Mounted, Watson Class.....	\$ 32.75	14.90
OPERATOR: Oiler.....	\$ 27.53	14.90
-----		
IRON0272-005 10/01/2024		

	Rates	Fringes
IRONWORKER, STRUCTURAL.....	\$ 28.84	15.72
-----		
LABO1652-004 05/01/2018		

	Rates	Fringes
LABORER: Grade Checker.....	\$ 22.05	7.27
-----		

PAIN0365-007 06/01/2021

	Rates	Fringes
PAINTER: Brush, Roller and Spray.....	\$ 20.21	12.38

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\* SUFL2009-146 06/24/2009

	Rates	Fringes
CARPENTER, Includes Form Work....	\$ 17.00 **	2.51
CEMENT MASON/CONCRETE FINISHER...	\$ 15.00 **	8.64
LABORER: Common or General.....	\$ 9.87 **	3.24
LABORER: Landscape.....	\$ 7.25 **	0.00
LABORER: Pipelayer.....	\$ 14.00 **	2.42
LABORER: Power Tool Operator (Hand Held Drills/Saws, Jackhammer and Power Saws Only).....	\$ 10.63 **	2.20
OPERATOR: Asphalt Paver.....	\$ 11.59 **	0.00
OPERATOR: Backhoe Loader Combo.....	\$ 16.10 **	2.44
OPERATOR: Backhoe/Excavator.....	\$ 18.77	1.87
OPERATOR: Bulldozer.....	\$ 14.95 **	0.81
OPERATOR: Grader/Blade.....	\$ 16.00 **	2.84
OPERATOR: Loader.....	\$ 14.00 **	2.42
OPERATOR: Mechanic.....	\$ 14.32 **	0.00
OPERATOR: Roller.....	\$ 10.95 **	0.00
OPERATOR: Scraper.....	\$ 11.00 **	1.74
OPERATOR: Trackhoe.....	\$ 20.92	5.50
OPERATOR: Tractor.....	\$ 10.54 **	0.00
TRUCK DRIVER, Includes Dump Truck.....	\$ 9.60 **	0.00
TRUCK DRIVER: Lowboy Truck.....	\$ 12.73 **	0.00

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TRUCK DRIVER: Off the Road  
Truck.....\$ 12.21 \*\* 1.97

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WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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\*\* Workers in this classification may be entitled to a higher minimum wage under Executive Order 14026 (\$17.75) or 13658 (\$13.30). Please see the Note at the top of the wage determination for more information. Please also note that the minimum wage requirements of Executive Order 14026 are not currently being enforced as to any contract or subcontract to which the states of Texas, Louisiana, or Mississippi, including their agencies, are a party.

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at <https://www.dol.gov/agencies/whd/government-contracts>.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (iii)).

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The body of each wage determination lists the classifications and wage rates that have been found to be prevailing for the type(s) of construction and geographic area covered by the wage determination. The classifications are listed in alphabetical order under rate identifiers indicating whether the particular rate is a union rate (current union negotiated rate), a survey rate, a weighted union average rate, a state adopted rate, or a supplemental classification rate.

### Union Rate Identifiers

A four-letter identifier beginning with characters other than ""SU"", ""UAVG"", ?SA?, or ?SC? denotes that a union rate was prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2024. PLUM is an identifier of the union whose collectively bargained rate prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. The date, 07/01/2024 in the example, is the effective date of the most current negotiated rate.

Union prevailing wage rates are updated to reflect all changes over time that are reported to WHD in the rates in the collective bargaining agreement (CBA) governing the classification.

### Union Average Rate Identifiers

The UAVG identifier indicates that no single rate prevailed for those classifications, but that 100% of the data reported for the classifications reflected union rates. EXAMPLE: UAVG-OH-0010 01/01/2024. UAVG indicates that the rate is a weighted union average rate. OH indicates the State of Ohio. The next number, 0010 in the example, is an internal number used in producing the wage determination. The date, 01/01/2024 in the example, indicates the date the wage determination was updated to reflect the most current union average rate.

A UAVG rate will be updated once a year, usually in January, to reflect a weighted average of the current rates in the collective bargaining agreements on which the rate is based.

### Survey Rate Identifiers

The ""SU"" identifier indicates that either a single non-union rate prevailed (as defined in 29 CFR 1.2) for this classification in the survey or that the rate was derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As a weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SUFL2022-007 6/27/2024. SU indicates the rate is a single non-union prevailing rate or a weighted average of survey data for that classification. FL indicates the State of Florida. 2022 is the year of the survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. The date, 6/27/2024 in the example, indicates the survey completion date for the classifications and rates under that identifier.

?SU? wage rates typically remain in effect until a new survey is conducted. However, the Wage and Hour Division (WHD) has the discretion to update such rates under 29 CFR 1.6(c)(1).

#### State Adopted Rate Identifiers

The ""SA"" identifier indicates that the classifications and prevailing wage rates set by a state (or local) government were adopted under 29 C.F.R 1.3(g)-(h). Example: SAME2023-007 01/03/2024. SA reflects that the rates are state adopted. ME refers to the State of Maine. 2023 is the year during which the state completed the survey on which the listed classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. The date, 01/03/2024 in the example, reflects the date on which the classifications and rates under the ?SA? identifier took effect under state law in the state from which the rates were adopted.

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WAGE DETERMINATION APPEALS PROCESS

1) Has there been an initial decision in the matter? This can be:

- a) a survey underlying a wage determination
- b) an existing published wage determination
- c) an initial WHD letter setting forth a position on a wage determination matter
- d) an initial conformance (additional classification and rate) determination

On survey related matters, initial contact, including requests for summaries of surveys, should be directed to the WHD Branch of Wage Surveys. Requests can be submitted via email to [davisbaconinfo@dol.gov](mailto:davisbaconinfo@dol.gov) or by mail to:

Branch of Wage Surveys  
Wage and Hour Division  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

Regarding any other wage determination matter such as conformance decisions, requests for initial decisions should be directed to the WHD Branch of Construction Wage Determinations. Requests can be submitted via email to [BCWD-Office@dol.gov](mailto:BCWD-Office@dol.gov) or by mail to:

Branch of Construction Wage Determinations  
Wage and Hour Division  
U.S. Department of Labor  
200 Constitution Avenue, N.W.

| |

Washington, DC 20210

2) If an initial decision has been issued, then any interested party (those affected by the action) that disagrees with the decision can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Requests for review and reconsideration can be submitted via email to [dba.reconsideration@dol.gov](mailto:dba.reconsideration@dol.gov) or by mail to:

Wage and Hour Administrator  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210.

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END OF GENERAL DECISION"

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## EXHIBIT A MINIMUM INSURANCE REQUIREMENTS

Project: Regional Effluent and Reuse Solutions Project No. 105643 – Bid Package 2  
Agency: Water and Wastewater Services

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	<b>\$2,000,000</b>	<b>\$4,000,000</b>
			Personal Injury		
			Products & Completed Operations		
<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>			Bodily Injury (each person)		
			Bodily Injury (each accident)		
			Property Damage		
			Combined Bodily Injury and Property Damage	<b>\$1,000,000</b>	
<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"/> <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	<b>STATUTORY LIMITS</b>	
<input checked="" type="checkbox"/> <b>EMPLOYER'S LIABILITY</b>			Each Accident	<b>\$1,000,000</b>	
<input checked="" type="checkbox"/> <b>POLLUTION/ENVIRONMENTAL LIABILITY</b>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Each Claim:	<b>\$2,000,000</b>	
			*Maximum Deductible:	\$10,000	
<input checked="" type="checkbox"/> <b>INSTALLATION FLOATER</b> <i>Note: Coverage must be "All Risk", Completed Value. Broward County must be a Loss Payee.</i>			*Maximum Deductible:	\$10,000	<b>Completed Value</b>
			CONTRACTOR IS RESPONSIBLE FOR DEDUCTIBLE		
<b>Description of Operations:</b> Broward County is additional insured for liability. Insured's insurance shall provide primary coverage and shall not require contribution from the County, self-insurance or otherwise. Waiver of subrogation applies in favor of Broward County. For Claims-Made policies insurance must be maintained and evidence of insurance must be provided for at least three (3) years after completion of the contract or work.					

**CERTIFICATE HOLDER:**  
Broward County  
115 South Andrews Avenue  
Fort Lauderdale, Florida 33301

Digitally signed by  
COLLEEN  
POUNALL  
Date: 2024.12.03  
10:23:00 -05'00'  
\_\_\_\_\_  
Risk Management Division

**State of Florida**  
**Department of Economic Opportunity**  
**Federally Funded**  
**Community Development Block Grant**  
**Mitigation Program (CDBG-MIT)**  
**Subrecipient Agreement**

THIS SUBRECIPIENT AGREEMENT is entered into by the State of Florida, Department of Economic Opportunity, (hereinafter referred to as “DEO”) and the Broward County Board of County Commissioners (hereinafter referred to as the “Subrecipient”), each individually a “Party” and collectively “the Parties.”

THIS AGREEMENT IS ENTERED INTO BASED ON THE FOLLOWING REPRESENTATIONS:

WHEREAS, pursuant to Public Law (P.L.) P.L. 115-123 Bipartisan Budget Act of 2018 and Additional Supplemental Appropriations for Disaster Relief Act 2018 (approved February 9, 2018), and P.L. 116-20 Supplemental Appropriations for Disaster Relief Requirements Act, 2019 (approved June 6, 2019), Division B, Subdivision 1 of the Bipartisan Budget Act of 2018, P.L. 115-56, the “Continuing Appropriations Act, 2018”; and the requirements of the Federal Register (FR) notices entitled “Allocations, Common Application, Waivers, and Alternative Requirements for Community Development Block Grant Mitigation Grantees”, 84 FR 45838 (August 30, 2019) and “Allocations, Common Application, Waivers, and Alternative Requirements for Community Development Block Grant Disaster Recovery Grantees” (CDBG Mitigation) 86 FR 561 (January 6, 2021);(hereinafter collectively referred to as the “Federal Register Guidance”), the U.S. Department of Housing and Urban Development (hereinafter referred to as “HUD”) has awarded Community Development Block Grant–Mitigation (CDBG-MIT) funds to DEO for mitigation activities authorized under Title I of the Housing and Community Development Act of 1974 (HCDA) (42 United States Code (U.S.C.) § 5301 *et seq.*) and applicable implementing regulations at 24 C.F.R. part 570 and consistent with the Appropriations Act.

WHEREAS, CDBG-MIT funds made available for use by the Subrecipient under this Agreement constitute a subaward of the DEO Federal award, the use of which must be in accordance with requirements imposed by Federal statutes, regulations and the terms and conditions of DEO’s Federal award.

WHEREAS, the Subrecipient has legal authority to enter into this Agreement and by signing this Agreement, the Subrecipient represents and warrants to DEO that it will comply with all the requirements of the subaward described herein.

WHEREAS, all CDBG-MIT activities carried out by the Subrecipient will: (1) meet the definition of mitigation activities. For the purpose of this funding, mitigation activities are defined as those activities that increase resilience to disasters and reduce or eliminate the long-term risk of loss of life, injury, damage to and loss of property, and suffering and hardship, by lessening the impact of future disasters; (2) address the current and future risks as identified in DEO’s Mitigation Needs Assessment of most impacted and distressed area(s); (3) be CDBG-eligible activities under the HCDA or otherwise eligible pursuant to a waiver or alternative requirement; and (4) meet a national objective, including additional criteria for mitigation activities and a Covered Project.

**NOW THEREFORE**, DEO and the Subrecipient agree to the following:

**(1) SCOPE OF WORK**

The Scope of Work for this Agreement includes Attachment A, Project Description and Deliverables. With respect to Attachment B, Project Budget, and Attachment C, Activity Work Plan, the Subrecipient shall submit to DEO such Attachments in conformity with the current examples attached hereto as necessary and appropriate. Provided further, if there is a disagreement between the Parties, with respect to the formatting and contents of such attachments, then DEO's decisions with respect to same shall prevail, at DEO's sole and absolute discretion.

**(2) INCORPORATION OF LAWS, RULES, REGULATIONS AND POLICIES**

Subrecipient has diligently reviewed this Agreement and is a sophisticated organization having experience managing projects with funds made available through federal grants. Subrecipient is familiar with DEO's grant agreement with HUD, has reviewed applicable CDBG-MIT regulations and guidelines, will conduct, and will ensure its activities are in compliance with DEO's grant agreement with HUD and all applicable CDBG-MIT regulations and guidelines. Subrecipient agrees to abide by all applicable State and Federal laws, rules and regulations as now in effect and as may be amended from time to time, including but not limited to, the Federal laws and regulations set forth in 24 CFR Part 570, applicable Federal Register Notices, the State's Action Plan, and all applicable CDBG-MIT regulations and guidelines.

Subrecipient shall ensure that all its activities under this Contract shall be conducted in conformance with these provisions, as applicable: 45 CFR Part 75, 29 CFR Part 95, 2 CFR Part 200, 20 CFR Part 601, 24 CFR Part 570 subpart I, *et seq.*, and all other applicable federal laws, regulations, and policies governing the funds provided under this Agreement as now in effect and as may be amended from time to time.

**(3) PERIOD OF AGREEMENT**

This Agreement is effective as of the date DEO executes this Agreement (the "Effective Date") and ends forty-eight (48) months after execution by DEO, unless otherwise terminated as set forth herein.

**(4) RENEWAL AND EXTENSION**

This Agreement shall not be renewed. DEO shall not grant any extension of this Agreement unless the Subrecipient provides justification satisfactory to DEO in its sole discretion and DEO's Director of the Division of Community Development approves such extension in writing

**(5) MODIFICATION OF AGREEMENT**

Modifications to this Agreement shall be valid only when executed in writing by the Parties. Any modification request by the Subrecipient constitutes a request to negotiate the terms of this Agreement. DEO may accept or reject any proposed modification based on DEO's sole determination and absolute discretion, that any such acceptance or rejection is in the State's best interest.

**(6) RECORDS**

(a) The Subrecipient's performance under this Agreement shall be subject to 2 CFR part 200 – Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards as now in effect and as may be amended from time to time.

(b) Representatives of DEO, the Chief Financial Officer of the State of Florida, the Auditor General of the State of Florida, the Florida Office of Program Policy Analysis and Government Accountability,

DEO Agreement No.: MT042

and representatives of the Federal government and their duly authorized representatives shall have access to any of the Subrecipient's books, documents, papers and records, including electronic storage media, as they may relate to this Agreement, for the purposes of conducting audits or examinations or making excerpts or transcriptions.

(c) The Subrecipient shall maintain books, records, and documents in accordance with generally accepted accounting procedures and practices which sufficiently and properly reflect all expenditures of funds provided by DEO under this Agreement.

(d) The Subrecipient will provide to DEO all necessary and appropriate financial and compliance audits in accordance with Paragraph (7), Audit Requirements and Attachments I and J herein and ensure that all related party transactions are disclosed to the auditor.

(e) The Subrecipient shall retain sufficient records to show its compliance with the terms of this Agreement and the compliance of all subrecipients, contractors, subcontractors and consultants paid from funds under this Agreement for a period of six (6) years from the date DEO issues the final closeout for this award. The Subrecipient shall also comply with the provisions of 24 CFR 570.493 and 24 CFR 570.502(a)(7)(ii). The Subrecipient shall further ensure that audit working papers are available upon request for a period of six (6) years from the date DEO issues the final closeout of this Agreement, unless extended in writing by DEO. The six-year period may be extended for the following reasons:

1. Litigation, claim or audit initiated before the six-year period expires or extends beyond the six-year period, in which case the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.
2. Records for the disposition of non-expendable personal property valued at \$1,000 or more at the time of acquisition shall be retained for six (6) years after final disposition.
3. Records relating to real property acquired shall be retained for six (6) years after the closing on the transfer of title.

(f) The Subrecipient shall maintain all records and supporting documentation for the Subrecipient and for all contractors, subcontractors and consultants paid from funds provided under this Agreement, including documentation of all program costs in a form sufficient to determine compliance with the requirements and objectives of the scope of work and all other applicable laws and regulations.

(g) The Subrecipient shall either (i) maintain all funds provided under this Agreement in a separate bank account or (ii) ensure that the Subrecipient's accounting system shall have sufficient internal controls to separately track the expenditure of all funds from this Agreement. Provided further, that the only option available for advanced funds is to maintain such advanced funds in a separate bank account. There shall be no commingling of funds provided under this Agreement with any other funds, projects or programs. DEO may, in its sole discretion, disallow costs made with commingled funds and require reimbursement for such costs as described herein, Subparagraph (22)(e), Repayments.

(h) The Subrecipient, including all of its employees or agents, contractors, subcontractors and consultants to be paid from funds provided under this Agreement, shall allow access to its records at reasonable times to representatives of DEO, the Chief Financial Officer of the State of Florida, the Auditor General of the State of Florida, the Florida Office of Program Policy Analysis and Government Accountability or representatives of the Federal government or their duly authorized representatives. "Reasonable" shall ordinarily mean during normal business hours of 8:00 a.m. to 5:00 p.m., local time, Monday through Friday.

## **(7) AUDIT REQUIREMENTS**

(a) The Subrecipient shall conduct a single or program-specific audit in accordance with the provisions of 2 CFR part 200 if it expends seven hundred fifty thousand dollars (\$750,000) or more in Federal awards from all sources during its fiscal year.

(b) Within sixty (60) calendar days of the close of Subrecipient's fiscal year, on an annual basis, the Subrecipient shall electronically submit a completed Audit Compliance Certification to [audit@deo.myflorida.com](mailto:audit@deo.myflorida.com), and DEO's grant manager; a blank version of which is attached hereto as

DEO Agreement No.: MT042

Attachment J . The Subrecipient's timely submittal of one completed Audit Compliance Certification for each applicable fiscal year will fulfill this requirement within all agreements (e.g., contracts, grants, memorandums of understanding, memorandums of agreement, economic incentive award agreements, etc.) between DEO and the Subrecipient.

(c) In addition to the submission requirements listed in Attachment I, Audit Requirements, the Subrecipient shall send an electronic copy of its audit report to DEO's grant manager for this Agreement by June 30 following the end of each fiscal year in which it had an open CDBG-MIT subgrant.

(d) Subrecipient shall also comply with the Federal Audit Clearinghouse rules and directives, including but not limited to the pertinent Report Submissions provisions of 2 C.F.R 200.512, when such provisions are applicable to this Agreement.

## **(8) REPORTS**

Subrecipient shall provide DEO with all reports and information set forth in Attachment G, Reports. The monthly reports and administrative closeout reports must include the current status and progress of Subrecipient and all subcontractors in completing the work described in Attachment A, Scope of Work, and the expenditure of funds under this Agreement. Within 10 calendar days of a request by DEO, Subrecipient shall provide additional program updates or information. Without limiting any other remedy available to DEO, if all required reports and copies are not sent to DEO or are not completed in a manner acceptable to DEO, payments may be withheld until the reports are completed to DEO's satisfaction. DEO may also take other action as stated in Paragraph (13) Remedies or otherwise allowable by law.

## **(9) INSPECTIONS AND MONITORING**

(a) Subrecipient shall cooperate and comply with DEO, HUD, and auditors with any inspections and will immediately provide access to records and financial statements as deemed necessary by DEO, HUD, and their respective auditors at least in accordance with requirements of 2 CFR part 200 and 24 CFR 570.489.

(b) Subrecipient shall cooperate and comply with monitoring of its activities as deemed necessary by DEO to ensure that the subaward is used for authorized purposes in compliance with federal statutes, regulations, and this Agreement.

(c) Without limiting the actions DEO, HUD, or their respective investigators may take, monitoring procedures will include at a minimum: (1) reviewing financial and performance reports required by DEO; (2) following-up and ensuring Subrecipient takes timely and appropriate action on all deficiencies pertaining to the federal award provided to Subrecipient from DEO as detected through audits, on-site reviews and other means; and (3) issuing a management decision for audit findings pertaining to this Federal award provided to Subrecipient from DEO as required by 2 CFR §200.521.

(d) Corrective Actions: DEO may issue management decisions and may consider taking enforcement actions if noncompliance is detected during audits. DEO may require Subrecipient to take timely and appropriate action on all deficiencies pertaining to the federal award provided to Subrecipient from the pass-through entity as detected through audits, on-site reviews and other means. In response to audit deficiencies or other findings of noncompliance with this agreement, DEO may in its sole discretion and without advance notice, impose additional conditions on the use of the CDBG-MIT funds to ensure future compliance or provide training and technical assistance as needed to correct noncompliance. DEO may also take other action as stated in Paragraph (13) Remedies or otherwise allowable by law.

## **(10) DUPLICATION OF BENEFITS**

Subrecipient shall not carry out any of the activities under this Agreement in a manner that results in a prohibited duplication of benefits as defined by Section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974 (42 U.S.C. 5155 *et seq.*) and described in Appropriations Acts. Subrecipient must comply with HUD's requirements for duplication of benefits, as described in the Federal Register and HUD guidance (including HUD training materials). Subrecipient shall carry out the activities under this

DEO Agreement No.: MT042

Agreement in compliance with DEO's procedures to prevent duplication of benefits. Subrecipient shall sign a Subrogation Agreement (See Attachment M).

#### **(11) LIABILITY**

(a) If Subrecipient is a state agency or subdivision, as defined in Section 768.28(2), F.S., pursuant to Section 768.28(19), F.S., neither Party indemnifies nor insures or assumes any liability for the other Party for the other Party's negligence.

(b) Subrecipient assumes sole responsibility for the training and oversight of the parties it deals with or employs to carry out the terms of this Agreement to the extent set forth in Section 768.28, Florida Statutes. Subrecipient shall hold DEO harmless against all claims of whatever nature arises from the work and services performed by third parties under this Agreement. For purposes of this Agreement, Subrecipient agrees that it is not an employee or agent of DEO but is an independent contractor.

(c) Subrecipient agrees to be fully responsible for its negligent or tortious acts or omissions, which result in claims or suits against DEO. Subrecipient agrees to be liable for any damages proximately caused by the acts or omissions to the extent set forth in Section 768.28, F.S. Nothing herein shall be construed as consent by DEO to be sued by third parties in any matter arising out of any agreement, contract or subcontract.

(d) Nothing herein is intended to serve as a waiver of sovereign immunity by DEO or the Subrecipient.

#### **(12) EVENTS OF DEFAULT**

If any of the following events occur ("Events of Default"), DEO may, in its sole and absolute discretion, elect to terminate any obligation to make any further payment of funds, exercise any of the remedies available through this Agreement or pursue any remedy at law or in equity, without limitation:

(a) Any warranty or representation made by Subrecipient, in this Agreement or any previous agreement with DEO, is or becomes false or misleading in any respect, or if Subrecipient fails to keep or perform any of the obligations, terms, or covenants in this Agreement or any previous agreement with DEO or HUD, and/or has not cured them in timely fashion and/or is unable or unwilling to meet its obligations under this Agreement and/or as required by statute, rule, or regulation;

(b) Any material adverse change occurs in the financial condition of Subrecipient at any time during the term of this Agreement and the Subrecipient fails to cure this adverse change within thirty (30) calendar days from the date written notice is sent by DEO;

(c) If Subrecipient fails to submit any required report or submits any required report with incorrect, incomplete, or insufficient information or fails to submit additional information as requested by DEO;

(d) If Subrecipient fails to perform or timely complete any of its obligations under this Agreement, including participating in DEO's Implementation Workshop. The Parties agree that in the event DEO elects to make payments or partial payments after any Events of Default, it does so without waiving the right to exercise any remedies allowable herein or at law and without becoming liable to make any further payment.

(e) Neither Party shall be liable to the other for any delay or failure to perform under this Agreement if such delay or failure is neither the fault nor the negligence of the Party or its employees or agents and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond the Party's control or for any of the foregoing that affects subcontractors or suppliers if no alternate source of supply is available. However, in the event of delay from the foregoing causes, the Party shall take all reasonable measures to mitigate any and all resulting delay or disruption in the Party's performance obligation under this Agreement. If the delay is excusable under this paragraph, the delay will not result in any additional charge or cost under the Agreement to either Party. In the case of any delay

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the Subrecipient believes is excusable under this paragraph, Subrecipient shall notify DEO in writing of the delay or potential delay and describe the cause of the delay either: (1) within ten (10) calendar days after the cause that creates or will create the delay first arose, if Subrecipient could reasonably foresee that a delay could occur as a result or (2) within five (5) calendar days after the date Subrecipient first had reason to believe that a delay could result, if the delay is not reasonably foreseeable. **THE FOREGOING SHALL CONSTITUTE SUBRECIPIENT'S SOLE REMEDY OR EXCUSE WITH RESPECT TO DELAY.** Providing notice in strict accordance with this paragraph is a condition precedent to such remedy. DEO, in its sole discretion, will determine if the delay is excusable under this paragraph and will notify Subrecipient of its decision in writing. No claim for damages, other than an extension of time, shall be asserted against DEO. Subrecipient shall not be entitled to an increase in the Agreement price or payment of any kind from DEO for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency arising because of delay, disruption, interference or hindrance from any cause whatsoever. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist, Subrecipient shall perform at no increased cost, unless DEO determines, in its sole discretion, that the delay will significantly impair the value of the Agreement to DEO or the State, in which case, DEO may do any or all of the following: (1) accept allocated performance or deliveries from Subrecipient, provided that Subrecipient grants preferential treatment to DEO with respect to products or services subjected to allocation; (2) purchase from other sources (without recourse to and by Subrecipient for the related costs and expenses) to replace all or part of the products or services that are the subject of the delay, which purchases may be deducted from the Agreement quantity or (3) terminate the Agreement in whole or in part.

### (13) REMEDIES

If an Event of Default occurs, DEO may in its sole discretion and without limiting any other right or remedy available, provide thirty (30) calendar days written notice to the Subrecipient and if the Subrecipient fails to cure within those thirty (30) calendar days DEO may choose to exercise one or more of the following remedies, either concurrently or consecutively:

- (a) Terminate this Agreement upon written notice by DEO sent in conformity with Paragraph (17) Notice and Contact;
- (b) Begin any appropriate legal or equitable action to enforce performance of this Agreement;
- (c) Withhold or suspend payment of all or any part of a request for payment;
- (d) Demand Subrecipient return to DEO any funds used for ineligible activities or unallowable costs under this Agreement or any applicable law, rule or regulation governing the use of the funds; and
- (e) Exercise any corrective or remedial actions, including but not limited to:
  1. Request additional information from the Subrecipient to determine the reasons for or the extent of non-compliance or lack of performance;
  2. Issue a written warning to advise that more serious measures may be taken if the situation is not corrected; and/or
  3. Advise the Subrecipient to suspend, discontinue or refrain from incurring costs for any activities in question.
- (f) Exercise any other rights or remedies which may be otherwise available under law.

Pursuit of any of the above remedies does not preclude DEO from pursuing any other remedies in this Agreement or provided at law or in equity. Failure to exercise any right or remedy in this Agreement or failure by DEO to require strict performance does not affect, extend or waive any other right or remedy

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available or affect the later exercise of the same right or remedy by DEO for any other default by the Subrecipient.

**(14) DISPUTE RESOLUTION**

DEO shall decide disputes concerning the performance of the Agreement, and document dispute decisions in writing and serve a copy of same to Subrecipient. All decisions are final and conclusive unless the Subrecipient files a petition for administrative hearing with DEO within twenty-one (21) days from the date of receipt of the decision. Exhaustion of administrative remedies prescribed in Chapter 120, F.S., is an absolute condition precedent to Subrecipient's ability to pursue any other form of dispute resolution; provided however, that the Parties may mutually agree to employ the alternative dispute resolution procedures outlined in Chapter 120, F.S.

**(15) CITIZEN COMPLAINTS**

The goal of DEO is to provide an opportunity to resolve complaints in a timely manner, usually within fifteen (15) business days of the receipt of the complaint as expected by HUD, if practicable, and to provide the right to participate in the process and appeal a decision when there is reason for an applicant to believe its application was not handled according to program policies. All applications, guidelines and websites will include details on the right to file a complaint or appeal and the process for filing a complaint or beginning an appeal.

Applicants are allowed to appeal program decisions related to one of the following activities:

- (a) A program eligibility determination,
- (b) A program assistance award calculation, or
- (c) A program decision concerning housing unit damage and the resulting program outcome.

Citizens may file a written complaint or appeal through the Office of Long-Term Resiliency email at [CDBG-DR@deo.myflorida.com](mailto:CDBG-DR@deo.myflorida.com) or submit by postal mail to the following address:

Attention: Office of Long-Term Resiliency  
Florida Department of Economic Opportunity  
107 East Madison Street  
The Caldwell Building, MSC 400  
Tallahassee, Florida 32399

The subrecipient will handle citizen complaints by conducting:

- (a) Investigations as necessary,
- (b) Resolution, and
- (c) Follow-up actions.

If the complainant is not satisfied by Subrecipient's determination, then the complainant may file a written appeal by following the instructions issued in the letter of response. If, at the conclusion of the appeals process, the complainant has not been satisfied with the response, a formal complaint may then be addressed directly to DEO at:

Department of Economic Opportunity  
Caldwell Building, MSC-400  
107 E Madison Street  
Tallahassee, FL 32399

The Florida Office of Long-Term Resiliency operates in Accordance with the Federal Fair Housing Law (The Fair Housing Amendments Act of 1988). Anyone who feels he or she has been discriminated against may file a complaint of housing discrimination: 1-800-669-9777 (Toll Free), 1-800-927-9275 (TTY) or [www.hud.gov/fairhousing](http://www.hud.gov/fairhousing).

## **(16) TERMINATION**

(a) DEO may immediately suspend or terminate this Agreement for cause by providing written notice, from the date notice is sent by DEO. Cause includes, but is not limited to: an Event of Default as set forth in this Agreement; Subrecipient's improper or ineffective use of funds provided under this Agreement; fraud; lack of compliance with any applicable rules, regulations, statutes, executive orders, HUD guidelines, policies, directives or laws; failure, for any reason, to timely and/or properly perform any of the Subrecipient's obligations under this Agreement; submission of reports that are incorrect or incomplete in any material respect and refusal to permit public access to any document, paper, letter or other material subject to disclosure under law, including Chapter 119, F.S., as amended. The aforementioned reasons for termination are listed in the immediately preceding sentence for illustration purposes but are not limiting DEO's sole and absolute discretion with respect to DEO's right to terminate this Agreement. In the event of suspension or termination, Subrecipient shall not be entitled to recover any cancellation charges or unreimbursed costs.

(b) DEO may unilaterally terminate this Agreement, in whole or in part, for convenience by providing Subrecipient fourteen (14) days written notice from the date notice is sent by DEO, setting forth the reasons for such termination, the effective date and, in the case of partial termination, the portion to be terminated. However, if in the case of partial termination, DEO determines that the remaining portion of the award will not accomplish the purpose for which the award was made, DEO may terminate the portion of the award which will not accomplish the purpose for which the award was made. Subrecipient shall continue to perform any work not terminated. In the event of termination for convenience, Subrecipient shall not be entitled to recover any cancellation charges or unreimbursed costs for the terminated portion of work.

(c) The Parties may terminate this Agreement for their mutual convenience in writing, in the manner agreed upon by the Parties, which must include the effective date of the termination.

(d) In the event that this Agreement is terminated, Subrecipient shall not incur new obligations under the terminated portion of the Agreement after the date Subrecipient has received the notification of termination. Subrecipient shall cancel as many outstanding obligations as possible. DEO shall disallow all costs incurred after Subrecipient's receipt of the termination notice. DEO may, to the extent authorized by law, withhold payments to Subrecipient for the purpose of set-off until the exact amount of damages due to DEO from Subrecipient is determined.

(e) Upon expiration or termination of this Agreement, Subrecipient shall transfer to DEO any CDBG-MIT funds on hand at the time of expiration or termination and any accounts receivable attributable to the use of CDBG-MIT funds.

(f) Any real property under Subrecipient's control that was acquired or improved in whole or in part with CDBG-MIT funds (including CDBG-MIT funds provided to the subrecipient in the form of a loan) in excess of \$25,000 must either:

1. Be used to meet a national objective until five years after expiration or termination of this Agreement, unless otherwise agreed upon by the Parties, or except as otherwise set forth herein; or
2. If not used to meet a national objective, Subrecipient shall pay to DEO an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-

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CDBG-MIT funds for the acquisition or improvement of the property for five years after expiration or termination of this Agreement.

(g) The rights and remedies under this clause are in addition to any other rights or remedies provided by law or under this Agreement.

**(17) NOTICE AND CONTACT**

(a) All notices provided under or pursuant to this Agreement shall be in writing, either by hand delivery, first class or certified mail with return receipt requested, email with confirmation of receipt of email from Subrecipient, to the representative identified below at the address set forth below or said notification attached to the original of this Agreement.

(b) The name and address of DEO's Grant Manager for this Agreement is:

John Schmick  
107 E. Madison Street  
Tallahassee, FL 32399  
850-921-3275  
[John.Schmick@Deo.MyFlorida.com](mailto:John.Schmick@Deo.MyFlorida.com)

(c) The name and address of the Local Government Project Contact for this Agreement is:

Mark Darmanin  
2555 West Copans Road  
Pompano Beach, Fl 33069  
(O) 954-831-0960  
[mdarmanin@broward.org](mailto:mdarmanin@broward.org)

(d) If different representatives or addresses are designated by either Party after execution of this Agreement, notice of the name, title and address of the new representative will be provided as provided for in this Agreement. Such change shall not require a formal amendment of the Agreement.

**(18) CONTRACTS**

If the Subrecipient contracts any of the work required under this Agreement, a copy of the proposed contract template and any proposed amendments, extensions, revisions, or other changes thereto, must be forwarded to the DEO grant manager for prior written approval. For each contract, the Subrecipient shall report to DEO as to whether that contractor or any subcontractors hired by the contractor, is a minority vendor, as defined in Section 288.703, F.S. The Subrecipient shall comply with the procurement standards in 2 CFR §200.318 - §200.327 and §200.330 when procuring property and services under this Agreement (refer to Attachments D & E).

The Subrecipient shall include the following terms and conditions in any contract pertaining to the work required under this Agreement:

- (a) the period of performance or date of completion;
- (b) the performance requirements;
- (c) that the contractor is bound by the terms of this Agreement;
- (d) that the contractor is bound by all applicable State and Federal laws, rules, and regulations;
- (e) that the contractor shall hold DEO and Subrecipient harmless against all claims of whatever nature arising out of the contractor's performance of work under this Agreement;
- (f) the obligation of the Subrecipient to document in Subrecipient's reports the contractor's progress in performing its work under this Agreement;

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- (g) the requirements of 2 CFR Appendix II to Part 200 – Contract Provision for Non-Federal Entity Contract Under Federal Awards – (refer to Attachment L)

Subrecipient must comply with CDBG regulations regarding debarred or suspended entities (24 CFR 570.489(l)), pursuant to which CDBG funds must not be provided to excluded or disqualified persons and provisions addressing bid, payment, performance bonds, if applicable, and liquidated damages.

Subrecipient shall maintain oversight of all activities performed under this Agreement and shall ensure that its contractors perform according to the terms and conditions of the procured contracts or agreements and the terms and conditions of this Agreement.

#### **(19) TERMS AND CONDITIONS**

This Agreement contains all the terms and conditions agreed upon by the Parties. There are no provisions, terms, conditions, or obligations other than those contained in this Agreement; and this Agreement supersedes all previous understandings. No waiver by DEO may be effective unless made in writing by an authorized DEO official.

#### **(20) ATTACHMENTS**

- (a) If any inconsistencies or conflict between the language of this Agreement and the attachments arise, the language of the attachments shall control, but only to the extent of the conflict or inconsistency.

- (b) This Agreement contains the following attachments:

Attachment A – Project Description and Deliverables

Attachment B – Project Budget (Example)

Attachment C – Activity Work Plan (Example)

Attachment D – Program and Special Conditions

Attachment E – State and Federal Statutes, Regulations and Policies

Attachment F – Civil Rights Compliance

Attachment G – Reports

Attachment H – Warranties and Representations

Attachment I – Audit Requirements and Exhibit 1 to Attachment I – Funding Sources

Attachment J – Audit Compliance Certification

Attachment K – SERA Access Authorization Form (form provided after execution of this agreement)

Attachment L – 2 CFR Appendix II to Part 200

Attachment M – Subrogation Agreement

#### **(21) FUNDING/CONSIDERATION**

- (a) The funding for this Agreement shall not exceed Six Million Two Hundred Fifty Thousand Dollars and Zero Cents (**\$6,250,000.00**) subject to the availability of funds. The State of Florida and DEO's performance and obligation to pay under this Agreement is contingent upon annual appropriations by the Legislature and subject to any modification in accordance with Chapter 216, F.S. or the Florida Constitution.

- (b) DEO will provide funds to Subrecipient by issuing a Notice of Subgrant Award/Fund Availability ("NFA") through DEO's financial management information system. Each NFA may contain specific terms, conditions, assurances, restrictions or other instructions applicable to the funds provided by the NFA. By accepting funds made available through an NFA, Subrecipient agrees to comply with all terms, conditions, assurances, restrictions or other instructions listed in the NFA.

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(c) By execution of this Agreement, Subrecipient certifies that necessary written administrative procedures, processes and fiscal controls are in place for the operation of its CDBG-MIT program for which Subrecipient receives funding from DEO. These written administrative procedures, processes and fiscal controls must, at minimum, comply with applicable state and federal law, rules, regulations, guidance and the terms of this Agreement. Subrecipient agrees to comply with all the terms and conditions of Attachment D, Program and Special Conditions.

(d) Subrecipient shall expend funds only for allowable costs and eligible activities, in accordance with the Scope of Work.

(e) Subrecipient shall request all funds in the manner prescribed by DEO. The authorized signatory for the Subrecipient set forth on the SERA Access Authorization Form must approve the submission of each Request for Funds (“RFF”) on behalf of Subrecipient. SERA Access Authorization Form will be provided after the execution of this Agreement.

(f) Except as set forth herein, or unless otherwise authorized in writing by DEO, costs incurred for eligible activities or allowable costs prior to the effective date of this Agreement are ineligible for funding with CDBG-MIT funds.

(g) If the necessary funds are not available to fund this Agreement as a result of action by the United States Congress, the Federal Office of Management and Budget, the Florida Legislature, the State Chief Financial Officer or under Subparagraph (23), Mandated Conditions of this Agreement, all obligations on the part of DEO to make any further payment of funds will terminate and the Subrecipient shall submit its administrative closeout report and subgrant agreement closeout package as directed by DEO within thirty (30) calendar days from receipt of notice from DEO.

(h) Subrecipient is ultimately responsible for the administration of this Agreement, including monitoring and oversight of any person or entity retained or hired by Subrecipient.

(i) All expenditures under this Agreement shall be made in accordance with this Agreement and any applicable state or federal statutes, rules, or regulations.

(j) Funding for this Agreement is appropriated under Public Law 115-254, Division I, the “Supplemental Appropriations for Disaster Relief Act, 2018” and Public Law 116-20, the “Additional Supplemental Appropriations for Disaster Relief Act, 2019” for the purpose of assisting in long-term recovery from major disasters that occurred in 2017, 2018, and 2019 in accordance with the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 et seq., (the “Stafford Act”).

(k) CDBG-DR funds, appropriated and identified by Public Law, are governed by one or more Federal Register notices that contain requirements, applicable waivers, and alternative requirements that apply to the use of these funds.

## **(22) REPAYMENTS**

(a) Subrecipient shall only expend funding under this Agreement for allowable costs resulting from obligations incurred during the Agreement period. Subrecipient shall ensure that its contractors, subcontractors, and consultants only expend funding under this Agreement for allowable costs resulting from obligations incurred during the Agreement period.

(b) In accordance with Section 215.971, F.S., Subrecipient shall refund to DEO any unobligated funds which have been advanced or paid.

(c) Subrecipient shall refund to DEO any funds paid in excess of the amount to which the Subrecipient or its contractors, subcontractors or consultants are entitled under the terms and conditions of this Agreement.

(d) Subrecipient shall refund to DEO any funds received for an activity if the activity does not meet one of the three National Objectives listed in 24 CFR § 570.483(b), (c) and (d); provided, however, the Subrecipient is not required to repay funds for subgrant administration unless DEO, in its sole discretion, determines Subrecipient is at fault for the ineligibility of the activity in question.

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(e) Subrecipient shall refund to DEO any funds not spent in accordance with the conditions of this Agreement or applicable law. Such reimbursement shall be sent to DEO, by the Subrecipient, within thirty (30) calendar days from Subrecipient's receipt of notification of such non-compliance.

(f) In accordance with Section 215.34(2), F.S., if a check or other draft is returned to DEO for collection, the Subrecipient shall pay to DEO a service fee of \$15.00 or five percent of the face amount of the returned check or draft, whichever is greater. All refunds or repayments to be made to DEO under this Agreement are to be made payable to the order of "Department of Economic Opportunity" and mailed directly to DEO at the following address:

Department of Economic Opportunity  
Community Development Block Grant Programs Cashier  
107 East Madison Street – MSC 400  
Tallahassee, Florida 32399-6508

### **(23) MANDATED CONDITIONS**

(a) The validity of this Agreement is subject to the truth and accuracy of all the information, representations and materials submitted or provided by the Subrecipient in this Agreement, in any later submission or response to a DEO request or in any submission or response to fulfill the requirements of this Agreement. All of said information, representations and materials are incorporated herein by reference.

(b) This Agreement shall be construed under the laws of the State of Florida and venue for any actions arising out of this Agreement shall be in the Circuit Court of Leon County. The Parties explicitly waive any right to jury trial.

(c) If any provision of this Agreement is in conflict with any applicable statute or rule, or is unenforceable, then that provision shall be null and void only to the extent of the conflict or unenforceability, and that provision shall be severable from and shall not invalidate any other provision of this Agreement.

(d) Any power of approval or disapproval granted to DEO under the terms of this Agreement shall survive the term of this Agreement.

(e) This Agreement may be executed in any number of counterparts, any one of which may be taken as an original.

(f) Subrecipient shall comply with all applicable local, state and federal laws, including the Americans With Disabilities Act of 1990, as amended; the Florida Civil Rights Act, as amended, Chapter 760, Florida Statutes; Title VII of the Civil Rights Act of 1964, as amended; (P.L. 101-336, 42 U.S.C. § 12101 *et seq.*) and laws which prohibit discrimination by public and private entities on in employment, public accommodations, transportation, state and local government services and telecommunications.

(g) Pursuant to Section 287.133(2)(a), F.S., a person or affiliate, as defined in Section 287.133(1), F.S., who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor or consultant under a contract with any public entity; and may not transact business with any public entity in excess of thirty-five thousand dollars (\$35,000) for a period of thirty-six (36) months following the date of being placed on the convicted vendor list. By executing this Agreement, the Subrecipient represents and warrants that neither it nor any of its affiliates is currently on the convicted vendor list. The Subrecipient shall disclose if it or any of its affiliates is placed on the convicted vendor list.

(h) Pursuant to Section 287.134(2)(a), F.S., an entity or affiliate, as defined in Section 287.134(1), who has been placed on the discriminatory vendor list may not submit a bid, proposal or reply on a contract

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to provide any goods or services to a public entity; may not submit a bid, proposal or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor or consultant under a contract with any public entity; and may not transact business with any public entity. By executing this Agreement, the Subrecipient represents and warrants that neither it nor any of its affiliates is currently on the discriminatory vendor list. The Subrecipient shall disclose if it or any of its affiliates is placed on the discriminatory vendor list.

(i) All bills for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof.

(j) In the event travel is pre-approved by DEO, any bills for travel expenses shall be submitted and reimbursed in accordance with Section 112.061, F.S., the rules promulgated thereunder and 2 CFR § 200.474.

(k) If Subrecipient is allowed to temporarily invest any advances of funds under this Agreement, any interest income shall either be returned to DEO or be applied against DEO's obligation to pay the Agreement award amount.

(l) Subrecipient acknowledges being subject to Florida's Government in the Sunshine Law (Section 286.011, F.S.) with respect to the meetings of Subrecipient's governing board or the meetings of any subcommittee making recommendations to the governing board. Subrecipient agrees that all such aforementioned meetings shall be publicly noticed, open to the public and the minutes of all the meetings shall be public records made available to the public in accordance with Chapter 119, F.S.

(m) Subrecipient shall comply with section 519 of P. L. 101-144, the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1990; and section 906 of P.L. 101-625, the Cranston-Gonzalez National Affordable Housing Act, 1990, by having, or adopting within ninety (90) days of execution of this Agreement, and enforcing, the following:

1. A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and

2. A policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within its jurisdiction.

(n) Upon expiration or termination of this Agreement, Subrecipient shall transfer to DEO any CDBG-MIT funds remaining at the time of expiration or termination, and any accounts receivable attributable to the use of CDBG-MIT funds.

#### **(24) LOBBYING PROHIBITION**

(a) No funds or other resources received from DEO under this Agreement may be used directly or indirectly to influence legislation or any other official action by the Florida Legislature or any state agency.

(b) The Subrecipient certifies, by its signature to this Agreement, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the Subrecipient, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any general loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement;

2. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the Subrecipient shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and

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3. Subrecipient shall require that this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose as described in this Agreement. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than ten thousand dollars (\$10,000) and not more than one hundred thousand dollars (\$100,000) for each such failure.

### **(25) COPYRIGHT, PATENT AND TRADEMARK**

Any and all patent rights accruing under or in connection with the performance of this Agreement are hereby reserved to the State of Florida. Any and all copyrights accruing under or in connection with the performance of this Agreement are hereby transferred by Subrecipient to the State of Florida.

(a) If the Subrecipient has a pre-existing patent or copyright, Subrecipient shall retain all rights and entitlements to that pre-existing patent or copyright unless this Agreement expressly provides otherwise.

(b) If any discovery or invention is developed in the course of or as a result of work or services performed under this Agreement or in any way connected with it, Subrecipient shall refer the discovery or invention to DEO for a determination whether the State of Florida will seek patent protection in its name. Any patent rights accruing under or in connection with the performance of this Agreement are reserved to the State of Florida. If any books, manuals, films or other copyrightable material are produced, Subrecipient shall notify DEO. Any copyrights accruing under or in connection with the performance under this Agreement are transferred by the Subrecipient to the State of Florida.

(c) Within thirty (30) calendar days of execution of this Agreement, Subrecipient shall disclose all intellectual properties relating to the performance of this Agreement which give rise to a patent or copyright. Subrecipient shall retain all rights and entitlements to any pre-existing intellectual property which is so disclosed. Failure to disclose will indicate that no such property exists, and DEO shall have the right to all patents and copyrights which accrue during performance of this Agreement.

### **(26) LEGAL AUTHORIZATION**

(a) Subrecipient certifies that it has the legal authority to receive the funds under this Agreement and that its governing body has authorized the execution and acceptance of this Agreement. Subrecipient certifies that the undersigned person has the authority to legally execute and bind the Subrecipient to the terms of this Agreement. DEO may, at its discretion, request documentation evidencing the undersigned has authority to bind Subrecipient to this Agreement as of the date of execution; any such documentation is incorporated herein by reference.

(b) Prior to the execution of this Agreement, Subrecipient warrants that, to the best of its knowledge, there is no pending or threatened action, proceeding, investigation or any other legal or financial condition that would in any way prohibit, restrain or diminish Subrecipient's ability to satisfy its obligations. Subrecipient shall immediately notify DEO in writing if its ability to perform is compromised in any manner during the term of this Agreement.

### **(27) PUBLIC RECORD RESPONSIBILITIES**

(a) In addition to Subrecipient's responsibility to directly respond to each request it receives for records, in conjunction with this Agreement and to provide the applicable public records in response to such request, Subrecipient shall notify DEO of the receipt and content of all such requests by sending an email to [PRRequest@deo.myflorida.com](mailto:PRRequest@deo.myflorida.com) within one (1) business day from receipt of the request.

(b) Subrecipient shall keep and maintain public records required by DEO to perform the Subrecipient's responsibilities hereunder. Subrecipient shall, upon request from DEO's custodian of

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public records, provide DEO with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided by Chapter 119, F.S., or as otherwise provided by law. Subrecipient shall allow public access to all documents, papers, letters or other materials made or received by the Subrecipient in conjunction with this Agreement, unless the records are exempt from Article I, Section 24(a) of the Florida Constitution and Section 119.07(1), F.S. For records made or received by Subrecipient in conjunction with this Agreement, Subrecipient shall respond to requests to inspect or copy such records in accordance with Chapter 119, F.S. For all such requests for records that are public records, as public records are defined in Section 119.011, F.S., Subrecipient shall be responsible for providing such public records per the cost structure provided in Chapter 119, F.S., and in accordance with all other requirements of Chapter 119, F.S., or as otherwise provided by law.

(c) This Agreement may be terminated by DEO for refusal by Subrecipient to comply with Florida's public records laws or to allow public access to any public record made or received by the Subrecipient in conjunction with this Agreement.

(d) If, for purposes of this Agreement, Subrecipient is a "contractor" as defined in Section 119.0701(1)(a), F.S. ("Subrecipient-contractor"), the Subrecipient-contractor shall transfer to DEO, at no cost to DEO, all public records upon completion including termination, of this Agreement or keep and maintain public records required by DEO to perform the service. If Subrecipient-contractor transfers all public records to the public agency upon completion of this Agreement, Subrecipient-contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Subrecipient-contractor keeps and maintains public records upon completion of the Agreement, the Subrecipient-contractor shall meet all applicable requirements for retaining public records in accordance with Chapters 119 and 257, F.S. All records stored electronically must be provided to DEO, upon request from DEO's custodian of public records, in a format that is compatible with the information technology systems of DEO.

(e) If DEO does not possess a record requested through a public records request, DEO shall notify Subrecipient-contractor of the request as soon as practicable, and the Subrecipient-contractor must provide the records to DEO or allow the records to be inspected or copied within a reasonable time, but in all cases within fourteen business days. If the Subrecipient-contractor does not comply with DEO's request for records, DEO shall enforce the provisions set forth in this Agreement. Subrecipient-contractor who fails to provide public records to DEO within a reasonable time may be subject to penalties under Section 119.10, F.S.

(f) Subrecipient shall notify DEO verbally within twenty-four (24) hours and in writing within seventy-two (72) hours if any data in the Subrecipient's possession related to this Agreement is subpoenaed or improperly used, copied or removed (except in the ordinary course of business) by anyone except an authorized representative of DEO. Subrecipient shall cooperate with DEO, in taking all steps as DEO deems advisable, to prevent misuse, regain possession or otherwise protect the State's rights and the data subject's privacy.

(g) Subrecipient acknowledges DEO is subject to the provisions of Chapter 119, F.S., relating to public records and that reports, invoices and other documents Subrecipient submits to DEO under this Agreement constitute public records under Florida Statutes. Subrecipient shall cooperate with DEO regarding DEO's efforts to comply with the requirements of Chapter 119, F.S.

(h) If Subrecipient submits records to DEO that are confidential and exempt from public disclosure as trade secrets or proprietary confidential business information, such records should be identified as such by Subrecipient prior to submittal to DEO. Failure to identify the legal basis for each exemption from the requirements of Chapter 119, F.S., prior to submittal of the record to DEO serves as the Subrecipient's waiver of a claim of exemption. Subrecipient shall ensure public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for

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the duration of this Agreement term and following completion of this Agreement if the Subrecipient-contractor does not transfer the records to DEO upon completion, including termination, of this Agreement.

**(i) IF SUBRECIPIENT-CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE SUBRECIPIENT-CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS by telephone at 850-245-7140, via email at [PRRequest@deo.myflorida.com](mailto:PRRequest@deo.myflorida.com), or by mail at Department of Economic Opportunity, Public Records Coordinator, 107 East Madison Street, Caldwell Building, Tallahassee, Florida 32399-4128.**

(j) To the extent allowable by law, Subrecipient shall be fully liable for the actions of its agents, employees, partners, contractors and subcontractors and shall fully indemnify, defend, and hold harmless the State and DEO, and their officers, agents and employees, from suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to public record requests or public record law violation(s), alleged to be caused in whole or in part by the Subrecipient, its agents, employees, partners, contractors or subcontractors, provided, however, Subrecipient does not indemnify for that portion of any costs or damages proximately caused by the negligent act or omission of the State or DEO. DEO, in its sole discretion, has the right, but not the obligation, to enforce this indemnification provision.

(k) DEO does not endorse any Subrecipient, commodity, or service. Subject to Chapter 119, F.S., Subrecipient shall not publicly disseminate any information concerning this Agreement without prior written approval from DEO, including, but not limited to, mentioning this Agreement in a press release or other promotional material, identifying DEO or the State as a reference, or otherwise linking Subrecipient's name and either a description of the Agreement or the name of DEO or the State in any material published, either in print or electronically, to any other entity that is not a Party to this Agreement, except potential or actual employees, agents, representatives or subcontractors with the professional skills necessary to perform the work services required by the Agreement.

(l) Subrecipient shall comply with the requirements set forth in Section 119.0701, F.S., when entering into any public agency contract for services after the Effective Date of this Agreement. Subrecipient shall amend each of the Subrecipient's public agency contracts for services already in effect as of the Effective Date of this Agreement and which contract will or may be funded in whole or in part with any public funds. DEO may terminate this Agreement if the Subrecipient does not comply with this provision.

## **(28) EMPLOYMENT ELIGIBILITY VERIFICATION**

(a) Section 448.095, F.S., requires the following:

1. Every public employer, contractor, and subcontractor shall register with and use the E-Verify system to verify the work authorization status of all newly hired employees. A public employer, contractor, or subcontractor may not enter into a contract unless each party to the contract registers with and uses the E-Verify system.

2. A private employer shall, after making an offer of employment which has been accepted by a person, verify such person's employment eligibility. A private employer is not required to verify the employment eligibility of a continuing employee hired before January 1, 2021. However, if a

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person is a contract employee retained by a private employer, the private employer must verify the employee's employment eligibility upon the renewal or extension of his or her contract.

(b) E-Verify is an Internet-based system that allows an employer, using information reported on an employee's Form I-9, Employment Eligibility Verification, to determine the eligibility of all new employees hired to work in the United States. There is no charge to employers to use E-Verify. The Department of Homeland Security's E-Verify system can be found at:

<https://www.e-verify.gov/>

(c) If the Recipient does not use E-Verify, the Recipient shall enroll in the E-Verify system prior to hiring any new employee or retaining any contract employee after the effective date of this Agreement.

### **(29) PROGRAM INCOME**

(a) The Subrecipient shall report to DEO all program income (as defined at 24 CFR § 570.500(a) or in the Federal Register Guidance governing the CDBG-MIT funds) generated by activities carried out with CDBG-MIT funds made available under this Agreement as part of the Subrecipient's Quarterly Progress Report. The Subrecipient shall use program income in accordance with the applicable requirements of 2 CFR part 200, 24 CFR part 570.489, 570.500, 570.504 and the terms of this Agreement.

(b) Program income generated after closeout shall be returned to DEO. Program income generated prior to closeout shall be returned to DEO unless the program income is used to fund additional units of CDBG-MIT activities, specified in a modification to this Agreement and duly executed prior to administrative closeout.

### **(30) NATIONAL OBJECTIVES**

All activities funded with CDBG-MIT funds must meet the criteria for one of the CDBG program's National Objectives. The Subrecipient certifies that the activities carried out under this Agreement shall meet the following national objectives and satisfy the following criteria:

- (a) Benefit low and moderate income;
- (b) Meet a particularly urgent need;
- (c) Aid in the prevention or elimination of slums or blight.

### **(31) INDEPENDENT CONTRACTOR**

(a) In Subrecipient's performance of its duties and responsibilities under this Agreement, it is mutually understood and agreed Subrecipient is at all times acting and performing as an independent contractor. Nothing in this Agreement is intended to or shall be deemed to constitute an employer/employee relationship, partnership or joint venture between the Parties. Subrecipient shall at all times remain an independent contractor with respect to the services to be performed under this Agreement. Nothing in this Agreement shall be construed to create any agency or employment relationship between DEO Subrecipient, its employees, subcontractors or agents. Neither Party shall have any right, power or authority to assume, create or incur any expense, liability or obligation, express or implied, on behalf of the other.

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(b) Subrecipient, its officers, agents, employees, subcontractors or assignees, in performance of this Agreement shall act in the capacity of an independent contractor and not as an officer, employee, agent, joint venturer, or partner of the State of Florida.

(c) Subrecipient shall have sole right to control the manner, method and means by which the services required by this Agreement are performed. DEO shall not be responsible to hire, supervise or pay Subrecipient's employees. Neither Subrecipient, nor its officers, agents, employees, subcontractors or assignees are entitled to State retirement or State leave benefits, or to any other compensation of State employment as a result of performing the duties and obligations of this Agreement.

(d) Subrecipient agrees to take such actions as may be necessary to ensure that each subcontractor will be deemed to be an independent contractor and will not be considered or permitted to be an agent, employee, servant, joint venturer or partner of the State of Florida.

(e) Unless justified by the Subrecipient, and agreed to by DEO in the Scope of Work, DEO will not furnish services of support (*e.g.*, office space, office supplies, telephone service, secretarial or clerical support) to the Subrecipient or its subcontractor or assignee.

(f) DEO shall not be responsible for withholding taxes with respect to the Subrecipient's use of funds under this Agreement. Subrecipient shall have no claim against DEO for vacation pay, sick leave, retirement benefits, social security, workers' compensation, health or disability benefits, reemployment assistance benefits or employee benefits of any kind. Subrecipient shall ensure that its employees, subcontractors and other agents, receive benefits and necessary insurance (health, workers' compensation, reemployment assistance benefits) from an employer other than the State of Florida.

(g) Subrecipient, at all times during the Agreement, must comply with the reporting and Reemployment Assistance contribution payment requirements of Chapter 443, F.S.

(h) DEO shall not be responsible the provision of any training to Subrecipient, its employees, assigns, agents, representatives or subcontractors in the professional skills necessary to perform the work services required by this Agreement; DEO may provide training in the form of an Implementation Workshop in keeping with implementation

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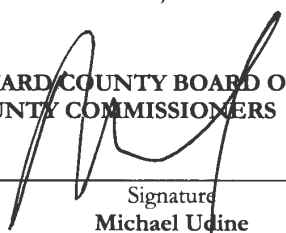
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**State of Florida**  
**Department of Economic Opportunity**  
**Federally Funded Subrecipient Agreement**  
**Signature Page**

IN WITNESS THEREOF, and in consideration of the mutual covenants set forth above and, in the attachments and exhibits hereto, the Parties executed this Agreement by their duly authorized undersigned officials.

**BROWARD COUNTY BOARD OF  
COUNTY COMMISSIONERS**

By   
 Signature  
**Michael Udine**


Title Mayor

Date 5/24/22

Federal Tax ID # 59-6000531

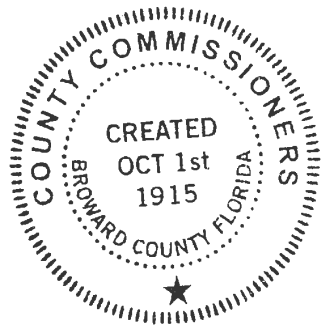
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**DEPARTMENT OF ECONOMIC  
OPPORTUNITY**

By   
 DocuSigned by:  
 Signature  
**Dane Eagle**

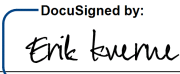
Title Secretary

Date 6/7/2022



Approved as to form and legal sufficiency, subject only to full and proper execution by the Parties.

**OFFICE OF GENERAL COUNSEL  
DEPARTMENT OF ECONOMIC OPPORTUNITY**

By:   
 DocuSigned by:  
 Signature  
**Erik Kume**

Approved Date: 5/27/2022

## Attachment A – Scope of Work

- 1. PROGRAM DESCRIPTION:** In April 2018, the U.S. Department of Housing and Urban Development (HUD) announced the State of Florida, Department of Economic Opportunity (DEO) would receive \$633,485,000 in funding to support long-term mitigation efforts following declared disasters in 2016 and 2017 through HUD's Community Development Block Grant Mitigation (CDBG-MIT) program. Awards were distributed on a competitive basis targeting HUD designated Most Impacted and Distressed (MID) Areas, primarily addressing the Benefits to Low-to-Moderate Income (LMI) National Objective. Additional information may be found in the Federal Register, Vol. 84, No. 169.

The Florida Department of Economic Opportunity (DEO) has apportioned the Federal Award to include the following initiatives: Critical Facility Hardening Program, \$75,000,000; General Planning Support Program, \$20,000,000; General Infrastructure Program, \$475,000,000; and State Planning and Administration, \$63,485,000.

This award has been granted under the General Infrastructure Program (GIP). Projects eligible for, but not limited to, funding under this program are infrastructure investments related to the following:

- Water
- Sewer
- Solid waste
- Communications
- Energy
- Transportation
- Health and Medical
- Other public infrastructure projects

- 2. PROJECT DESCRIPTION:** Broward County has been awarded **\$6,250,000.00** in CDBG-MIT (Community Development Block Grant – Mitigation) funding for mitigation efforts associated with hurricane events, droughts, and saltwater intrusion into the County's drinking water. The mitigation activities consist of construction and installation of two parallel pipes spanning 3.5 miles connecting the North Regional Wastewater Treatment Plant and the OASIS Reuse facility.

The project meets the LMI National Objective as **53%** of the population within the area of benefit consists of low to moderate income residents. There are \$6,250,000.00 in matching funds from Broward County Water and Wastewater Services Budget included in this project. **The project is expected to be completed within 48 months at a cost of \$12,500,000.00.** The team overseeing this project consists of the Director of Water & Wastewater Operations, Assistant Director of Water & Wastewater Operations, Expansion Project Manager, Construction Project Manager, Engineering Inspector, Utilities Superintendent, Chief Treatment Plant Operator, Assistant to the Director, and requisite contractor(s).

- 3. SUBRECIPIENT RESPONSIBILITIES:**

- A. Complete and submit to DEO within thirty (30) days of Agreement execution a staffing plan which must be reviewed and approved by the DEO Grant Manager prior to implementation. Should any changes to the staffing plan be deemed necessary, an updated plan must be submitted to DEO for review and approval. The Staffing plan must include the following:
  1. Organizational Chart; and
  2. Job descriptions for Subrecipient's employees, contracted staff, vendors, and contractors.

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- B. Develop and submit a copy of the following policies and procedures to the DEO Grant Manager for review and approval within thirty (30) days of Agreement execution. The DEO Grant Manager will provide approval in writing prior to the policies and procedures being implemented.
  - 1. Procurement policies and procedures that incorporate 2 CFR Part 200.317-327.
  - 2. Administrative financial management policies, which must comply with all applicable HUD CDBG-MIT and State of Florida rules.
  - 3. Quality assurance and quality control system policies and procedures that comply with all applicable HUD CDBG-MIT and DEO policies.
  - 4. Policies and procedures to detect and prevent fraud, waste and abuse that describe how the Subrecipient will verify the accuracy of applicant information, monitoring policy indicating how and why monitoring is conducted, the frequency of monitoring policy, and which items will be monitored, and procedures for referring instances of fraud, waste and abuse to HUD OIG Fraud Hotline (phone: 1-800-347-3735 or email [hotline@hudoig.gov](mailto:hotline@hudoig.gov)).
  - 5. Policies and procedures for the requirements under 2 CFR 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Award.
- C. Attend fraud related training offered by HUD OIG to assist in the proper management of the CDBG-MIT grant funds when available.
- D. Upload required documents into a system of record provided by DEO.
- E. Complete and submit an updated Project Detail Budget (Attachment B) for review and approval by DEO no later than thirty (30) days after Agreement execution. Any changes to the Project Detail Budget must be submitted in the monthly report submitted to DEO for review and approval by the DEO Grant Manager.
- F. Maintain organized Subrecipient agreement files and make them accessible to DEO or its representatives upon request.
- G. Comply with all terms and conditions of the Subrecipient Agreement, Infrastructure Program Guidelines, Action Plans, Action Plan amendments, and Federal, State, and local laws.
- H. Provide copies of all proposed procurement documents to DEO ten (10) days prior to posting as detailed in Attachment D of Subrecipient Agreement. The proposed procurement documents will be reviewed and approved by DEO Grant Manager. Should the procurement documents require revisions based on state or federal requirements, Subrecipient will be required to postpone procurement and submit revised documents for review and approval.
- I. Complete procurement of all applicants for internal grants management and compliance and direct program and product production, including:
  - 1. Selection of applicants, subrecipients and/or staff that will be responsible for managing applicant intake and related operations, compliance, finance, and administration.
  - 2. Selection of applicants, subrecipients and/or staff that will be responsible for appraisal, environmental review, title services and legal services.
  - 3. Copies of all contracts that will be executed by Subrecipient. Contracts must be provided to DEO prior to execution as detailed in Attachment D. Any contract executed by Subrecipient must follow the terms and conditions set forth in this Agreement. Should the submitted contract require necessary additions and/or changes, DEO's Contract Manager will contact Subrecipient regarding changes. Subrecipient is required to submit the updated contract within thirty (30) days. Should the contract not be submitted in a timely manner, Subrecipient will be required to complete the selection process once more.
- J. Ensure all projects seeking assistance under the current CDBG-MIT funds, and any future funds allocated for Mitigation, provided by DEO, receive the required Environmental Clearance from DEO prior to Subrecipient being able to commit CDBG-MIT funds.
- K. Provide the following documentation to DEO within ten (10) calendars after the end of each month:
  - 1. A revised detail report measuring the actual cost versus the project cost.

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2. An updated Attachment C which documents any changes to the project progress along with justification for the revision.
- L. Develop and submit to DEO a monthly revised detailed timeline for implementation consistent with the milestones outlined in the Mitigation Program Guidelines and report actual progress against the projected progress ten (10) calendar days after the end of each month.
- M. Provide the following information on a quarterly basis within ten (10) calendar days of the end of each quarter:
  1. Submit updated organization chart on a quarterly basis with quarterly report.
  2. If staffing changes, there must be a submittal stating the names, job descriptions, on the monthly report deadline.
  3. A progress report documenting the following information:
    - a. Accomplishments within the past quarter;
    - b. Issues or risks that have been faced with resolutions; and
    - c. Projected activities to be completed within the following quarter.
- N. Subrecipient shall adhere to the deadlines for the project as agreed upon in the Attachment C – Activity Work Plan. If Subrecipient is unable to meet a deadline within thirty (30) calendar days of the due date, Subrecipient shall request an extension of such deadline from DEO in writing at least thirty (30) business days prior to the deadline. Deadlines shall not be extended outside of the term of this Agreement except by a formal amendment executed in accordance with Section (5) Modification of Agreement.
- O. Close out report is due no later than sixty (60) calendar days after this Agreement ends or is otherwise terminated.

**4. ELIGIBLE TASKS AND DELIVERABLES:**

**Deliverable No. 1 – Construction**

Contractor will construct a parallel line interconnect approximating 3.5 miles spanning between the North Regional Wastewater Treatment Plant and the OASIS Reuse facility. Work includes mobilization, demobilization, bonds and insurance, and restoration of work area.

**5. DEO RESPONSIBILITIES:**

- A. Monitor the ongoing activities of Subrecipient to ensure all activities are being performed in accordance with the Agreement to the extent required by law or deemed necessary by DEO in its discretion
- B. Assign a Grant Manager as a point of contact for Subrecipient
- C. Review Subrecipient’s invoices described herein and process them on a timely basis
- D. DEO shall monitor progress, review reports, conduct site visits, as DEO determines necessary at DEO’s sole and absolute discretion, and process payments to Subrecipient

**6. DELIVERABLES: Subrecipient agrees to provide the following services as specified:**

<b>Deliverable No. 1 – Construction</b>		
<b>Task:</b>	<b>Minimum Level of Service:</b>	<b>Financial Consequences:</b>
Subrecipient shall complete tasks as detailed in Section 4.A of the Scope of Work.	Subrecipient may request reimbursement upon completion of the tasks listed in Section 4.A. of the Scope of Work, or upon completion of construction at the 30%, 60%, 90% and closeout	Failure to complete the Minimum Level of Service as specified shall result in non-payment for this deliverable for each payment request.

	<p>milestones. All reimbursement requests must be evidenced by submittal of the following documentation:</p> <ol style="list-style-type: none"> <li>1) AIA forms G702 and G703, or their substantive equivalent, certifying that the project, or a quantifiable portion of the project is complete;</li> <li>2) Photographs of the completed project, or progress made; and</li> <li>3) Invoice package in accordance with Section 7 of this Scope of Work.</li> </ol>	
<p><b>TOTAL PROJECT COST NOT TO EXCEED: \$6,250,000.00</b></p>		

**COST SHIFTING:** The deliverable amounts specified within the Deliverables table above are established based on the Parties estimation of sufficient delivery of services fulfilling grant purposes under the Agreement in order to designate payment points during the Agreement Period; however, this is not intended to restrict DEO’s ability to approve and reimburse allowable costs Subrecipient incurred providing the deliverables herein. Prior written approval from DEO’s Grant Manager is required for changes to the above Deliverable amounts that do not exceed 10% of each deliverable total funding amount. Changes that exceed 10% of each deliverable total funding amount will require a formal written amendment request from Subrecipient, as described in Modification section of the Agreement. Regardless, in no event shall DEO reimburse costs of more than the total amount of this Agreement.

**7. INVOICE SUBMITTAL:**

DEO shall reimburse Subrecipient in accordance with Section 6, above. In accordance with the Funding Requirements of s. 215.971(1), F.S. and Section 21 of this Agreement, Subrecipient and its subcontractors may only expend funding under this Agreement for allowable costs resulting from obligations incurred during this Agreement. To be eligible for reimbursement, costs must be in compliance with laws, rules and regulations applicable to expenditures of State funds, including, but not limited to, the Reference Guide for State Expenditures (<https://www.myfloridacfo.com/Division/AA/Manuals/documents/ReferenceGuideforStateExpenditures.pdf>).

- A. Subrecipient shall provide one invoice for services rendered during the applicable period of time as defined in the deliverable table. In any month no deliverable has been completed, the subrecipient will provide notice that no invoicing will be submitted.
- B. The following documents shall be submitted with the itemized invoice:
  1. A cover letter signed by Subrecipient’s Agreement Manager certifying that the costs being claimed in the invoice package: (1) are specifically for the project represented to the State in the budget appropriation; (2) are for one or more of the components as stated in Section 6, DELIVERABLES, of this Attachment A; (3) have been paid; and (4) were incurred during this Agreement.
  2. Subrecipient’s invoices shall include the date, period in which work was performed, amount of reimbursement, and work completed to date;
  3. A certification by a licensed professional using AIA forms G702 and G703, or their substantive equivalents, certifying that the project, or a quantifiable portion of the project, is complete.
  4. Photographs of the project in progress and completed work;
  5. A copy of all supporting documentation for vendor payments;

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6. A copy of the bank statement that includes the cancelled check or evidence of electronic funds transfer. The State may require any other information from Subrecipient that the State deems necessary to verify that the services have been rendered under this Agreement.
- C. Subrecipient's invoice and all documentation necessary to support payment requests must be submitted into DEO's Subrecipient Management Reporting Application (SERA). Further instruction on SERA invoicing and reporting, along with a copy of the invoice template, will be provided upon execution of the Agreement.

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**Attachment B – Project Budget (Example)**

Subrecipient: \_\_\_\_\_ Contract Number: \_\_\_\_\_ Modification Number: \_\_\_\_\_

Activity/Project		National Objective			Beneficiaries					Budget			
Activity	Description	LMI	Slum & Blight	Urgent Need	VLI	LI	MI	Non-LMI	Total	CDBG-MIT Amount	Other Funds	Source*	Total Funds
<b>1. Housing Program - Homeowner Service Project (Example Activities)</b>													
	Home Repair												
	Reconstruction												
	Replacement of Manufactured Homes												
	Temporary Rental and Mortgage Assistance												
	Buyout / Acquisition for Redevelopment												
<b>2. Housing Program - Supportive Housing Initiative PUD Rental Housing Project (Example Activities)</b>													
<b>3. Public Facilities Program – Unified Service Center (Example Activities)</b>													
<b>4. Infrastructure Program (Example Activities)</b>													
	Armstrong Drainage Project												
	Hastings Phase I Sewer												
	Hastings Phase II Sewer												





### Attachment D – Program and Special Conditions

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1. The Subrecipient shall demonstrate that progress is being made in completing project activities in a timely fashion pursuant to the activity work plan. If the Subrecipient does not comply with the activity work plan schedule, a justification for the delay and a plan for timely accomplishment shall be submitted to DEO within 21 calendar days of receiving DEO's request for justification for the delay. Any project for which the Subrecipient has not completed the activities listed in the Activity Work Plan may be rescinded unless DEO agrees that the Subrecipient has provided adequate justification for the delay.
2. The Subrecipient shall maintain records of expenditure of funds from all sources that will allow accurate and ready comparison between the expenditures and the budget/activity line items as defined in the Project Detail Budget and Activity Work Plan.
3. The Subrecipient shall request DEO's approval for all professional services contracts and/or agreements that will be reimbursed with CDBG-MIT funds. Copies of the following procurement documents must be provided to DEO for review:
  - a. When publication of a Request for Proposal (RFP) is used as a means of solicitation, a copy of the advertisement, including an affidavit of publication;
  - b. DEO will either approve the procurement or notify the Subrecipient that the procurement cannot be approved because it violates State, Federal or local procurement guidelines. The Subrecipient shall notify DEO in writing no later than 90 calendar days from the effective date of this agreement if it will not be procuring any professional services or if it will be using non-CDBG-MIT funds to pay for professional services.
4. Prior to the obligation or disbursement of any funds, except for administrative expenses and not to exceed \$5000, the Subrecipient shall complete the following:
  - a. Submit for DEO's approval the documentation required in paragraph 3 above for any professional services contract. The Subrecipient proceeds at its own risk if more than the specified amount is incurred before DEO approves the procurement. If DEO does not approve the procurement of a professional services contract, the local government will not be able to use CDBG-MIT funds for that contract beyond \$5,000.
  - b. Comply with 24 CFR part 58 and the regulations implementing the National Environmental Policy Act, 40 CFR §§ 1500-1508. When the Subrecipient has completed the environmental review process, it shall submit a Request for Release of Funds and Certification. DEO will issue an Authority to Use Grant Funds (form HUD-7015.16) when this condition has been fulfilled to the satisfaction of DEO. If DEO has not issued an Authority to use Grant Funds within 15 days of Subrecipient's submission of the required documentation, DEO shall provide the Subrecipient a written update regarding the status of the review process. **SUBRECIPIENT SHALL NOT BEGIN CONSTRUCTION BEFORE DEO HAS ISSUED THE "AUTHORITY TO USE GRANT FUNDS."**
5. The Subrecipient agrees to comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. §§ 4601-4655; hereinafter, the "URA"), implementing regulations at 24 CFR part 42, 49 CFR part 24 and 24 CFR § 570.606(b), the requirements of 24 CFR § 42.325 – 42.350 governing the Residential Anti-displacement and Relocation Assistance Plan under section 104(d) of the Housing and Community Development Act of 1974 (42 U.S.C. § 5304(d)), and the requirements in 24 CFR § 570.606(d), governing optional relocation assistance policies.
6. If the Subrecipient undertakes any activity subject to the URA, the Subrecipient shall document completion of the acquisition by submitting all documentation required for a desk monitoring of the acquisition, including a notice to property owners of his or her rights under the URA, an invitation to accompany the appraiser, all appraisals, offer to the owner, acceptance, contract for sale, statement of settlement costs, copy of deed, waiver of rights (for donations), as applicable. The documentation shall be submitted prior to completing the acquisition (closing) so that DEO can

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determine whether remedial action may be needed. The Subrecipient shall provide relocation assistance to displaced persons as defined by 24 CFR § 570.606(b)(2), that are displaced as a direct result of acquisition, rehabilitation, demolition, or conversion for a CDBG-assisted project.

7. The Subrecipient shall timely submit completed forms for all prime and subcontractors as required by this Agreement, DEO, HUD, and applicable, regulations and guidance laws, specifically including but not limited to:
  - a. Certification Regarding Debarment, Suspension, and Other Responsibility Matters (Primary Covered Transactions);
  - b. Section 3 Participation Report (Construction Prime Contractor);
  - c. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion (Subcontractor), (if applicable); and
  - d. Section 3 Participation Report (Construction Subcontractor), (if applicable).
8. In addition, each construction contract or agreement for new or replacement housing must contain language that requires the contractor to meet the Green Building Standard for Replacement and New Construction of Residential Housing, as defined in the Allocation notice published in the Federal Register Volume 81, Number 224 on Monday, November 21, 2016.
9. For each Request for Funds (RFF) that includes reimbursement of construction costs, the Subrecipient shall provide a copy of the American Institute of Architects (AIA) form G702, Application and Certification for Payment, or a comparable form approved by DEO, signed by the contractor and inspection engineer, and a copy of form G703, Continuation Sheet, or a comparable form approved by DEO. For each RFF that includes construction costs, the Subrecipient shall provide a copy of AIA form G702, or a comparable form approved by DEO, if applicable, signed by the contractor and the local building inspector or housing specialist and a copy of form G703, or a comparable form approved by DEO, if applicable.
10. For each project, when the Subrecipient issues the Notice to Proceed to the contractor(s), copies of the following documents shall be sent to DEO:
  - a. Notice to Proceed;
  - b. The contractor's performance bond (100 percent of the contract price); and
  - c. The contractor's payment bond (100 percent of the contract price).
11. The Subrecipient shall undertake an activity each quarter to affirmatively further fair housing pursuant to 24 CFR § 570.487(b).
12. The Subrecipient shall ensure that a deed restriction is recorded on any real property or facility, excluding easements, acquired with CDBG-MIT funds. This restriction shall limit the use of that real property or facility to the use stated in the subgrant application and that title shall remain in the name of the Subrecipient. Such deed restriction shall be made a part of the public records in the Clerk of Court of the county in which the real property is located. Any future disposition of that real property shall be in accordance with 24 CFR § 570.505. Any future change of use of real property shall be in accordance with 24 CFR § 570.489(j).
13. The Subrecipient shall comply with the historic preservation requirements of the National Historic Preservation Act of 1966, as amended, the procedures set forth in 36 CFR part 800, and the Secretary of the Interior's Standards for Rehabilitation, codified at 36 CFR 67, and Guidelines for Rehabilitating Historic Buildings.
14. Pursuant to section 102(b), Public Law 101-235, 42 U.S.C. § 3545, the Subrecipient shall update and submit Form HUD 2880 to DEO within thirty (30) calendar days of the Subrecipient's knowledge of changes in situations which would require that updates be prepared. The Subrecipient must disclose:
  - a. All developers, contractors, consultants and engineers involved in the application or in the planning, development or implementation of the project or CDBG- MIT-funded activity; and

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- b. Any person or entity that has a financial interest in the project or activity that exceeds \$50,000 or 10 percent of the grant, whichever is less.
15. If required, the Subrecipient shall submit a final Form HUD 2880, to DEO with the Subrecipient's request for administrative closeout, and its absence or incompleteness shall be cause for rejection of the administrative closeout.
16. Conflicts of interest relating to procurement shall be addressed pursuant to 24 CFR § 570.489(g). Title 24 CFR § 570.489(h) shall apply in all conflicts of interest not governed by 24 CFR § 570.489(g), such as those relating to the acquisition or disposition of real property; CDBG-MIT financial assistance to beneficiaries, businesses or other third parties; or any other financial interest, whether real or perceived. Additionally, the Subrecipient agrees to comply with, and this Agreement is subject to, Chapter 112 F.S.
17. Any payment by the Subrecipient using CDBG-MIT funds for acquisition of any property, right-of-way, or easement that exceeds fair market value as determined through the appraisal process established in HUD Handbook 1378 shall be approved in writing by DEO prior to distribution of the funds. Should the Recipient fail to obtain DEO pre-approval, any portion of the cost of the acquisition exceeding Fair Market Value shall not be paid or reimbursed with CDBG-MIT funds.
18. The Subrecipient shall take photographs or video of all activity locations prior to initiating any construction. As the construction progresses, additional photography or videography shall document the ongoing improvements. Upon completion of construction, final documentation of the activity locations will be provided to DEO with the administrative closeout package for this Agreement.
19. If an activity is designed by an engineer, architect or other licensed professional, it shall be certified upon completion by a licensed professional as meeting the specifications of the design, as may have been amended by change orders. The date of completion of construction shall be noted as part of the certification. This certification shall be accomplished prior to submission of an administrative closeout package and a copy of the certification shall be submitted with the administrative closeout package.

## **Attachment E – State and Federal Statutes, Regulations, and Policies**

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The CDBG-MIT funds available to the Subrecipient through this agreement constitute a subaward of DEO's Federal award under the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR part 200. This agreement includes terms and conditions of DEO's Federal award that are imposed on the Subrecipient and the Subrecipient agrees to carry out its obligations in compliance with all of the obligations described in this Agreement.

The Subrecipient agrees to, and, by signing this Agreement, certifies that, it will comply with all applicable provisions of the Housing and Community Development Act of 1974, as amended, and the regulations at 24 CFR part 570, as modified by the Federal Register notices that govern the use of CDBG-MIT funds available under this agreement. These Federal Register notices include, but are not limited to, Federal Register Guidance Vol. 84, No. 169/Friday, August 30, 2019/Notices, Vol. 81, No. 224/Monday, November 21, 2016/Notices, Volume 83, No. 28/Friday, February 9, 2018/Notices, Volume 82, No. 11/Wednesday, January 18, 2017/Notices, Volume 82, No. 150/Monday, August 7, 2017/Notices, and Vol. 83, No. 157/Tuesday, August 14, 2018/Notices. Notwithstanding the foregoing, (1) the Subrecipient does not assume any of DEO's responsibilities for environmental review, decision-making and action, described in 24 CFR part 58 and (2) the Subrecipient does not assume any of DEO's responsibilities for initiating the review process under the provisions of 24 CFR Part 52. The Subrecipient shall also comply with all other applicable Federal, state and local laws, regulations and policies as now in effect and as may be amended from time to time that govern the use of the CDBG-MIT funds in complying with its obligations under this agreement, regardless of whether CDBG-MIT funds are made available to the Subrecipient on an advance or reimbursement basis.

The Subrecipient also agrees to use funds available under this Agreement to supplement rather than supplant funds otherwise available. The Subrecipient further agrees to comply with all other applicable Federal, State, and local laws, regulations and policies governing the funds provided under this Agreement, including, but not limited to the following:

1. State of Florida Requirement

State of Florida Requirements are stated throughout this Agreement and Attachments thereto.

2. Audits, Inspections and Monitoring

a. Single Audit

The Subrecipient must be audited as required by 2 CFR part 200, subpart F when it is expected that the Subrecipient's Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in §200.501 Audit requirements.

b. Inspections and Monitoring

The Subrecipient shall permit DEO and auditors to have access to the Subrecipient's records and financial statements as necessary for DEO to meet the requirements of 2 CFR part 200.

The Subrecipient must submit to monitoring of its activities by DEO as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of this agreement.

This review must include:

- (1) Reviewing financial and performance reports required by DEO;
- (2) Following up and ensuring that the Subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the Subrecipient from DEO detected through audits, on-site reviews, and other means; and
- (3) Issuing a management decision for audit findings pertaining to this Federal award provided to the Subrecipient from DEO as required by 2 CFR §200.521.

c. Corrective Actions

The Subrecipient shall be subject to reviews and audits by DEO, including onsite reviews of the Subrecipient as may be necessary or appropriate to meet the requirements of 42 U.S.C. 5304(e)(2). DEO may issue management decisions and may consider taking enforcement actions if noncompliance is detected during audits. DEO may require the Subrecipient to take timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site. DEO may impose additional conditions on the use of the CDBG-MIT funds to ensure future compliance or provide training and technical assistance as needed to correct noncompliance.

3. Drug-Free Workplace

Subrecipients must comply with drug-free workplace requirements in Subpart B of part 2429, which adopts the government-wide implementation (2 CFR part 182) of sections 5152-5158 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701-707).

4. Procurement and Contractor Oversight

The Subrecipient shall comply with the procurement standards in 2 CFR §200.318 - §200.327 when procuring property and services under this agreement. The Subrecipient shall impose the Subrecipient's obligations under this agreement on its contractors, specifically or by reference, so that such obligations will be binding upon each of its contractors.

The Subrecipient must comply with CDBG regulations regarding debarred or suspended entities, specifically including, 24 CFR 570.609 or 24 CFR 570.489, as applicable. CDBG funds may not be provided to excluded or disqualified persons.

The Subrecipient shall maintain oversight of all activities under this agreement and shall ensure that for any procured contract or agreement, its contractors perform according to the terms and conditions of the procured contracts or agreements, and the terms and conditions of this agreement. To check for debarred or suspended entities, please visit <https://www.sam.gov/SAM/>

5. Property Standards

Real property acquired by the Subrecipient under this agreement shall be subject to 24 CFR 570.489(j) and 24 CFR 570.200(j). The Subrecipient shall also comply with the Property Standards at 2 CFR 200.310, 2 CFR 200.312, 2 CFR 200.314 through 2 CFR 200.316. The Subrecipient shall also comply with 2 CFR 200.313 Equipment, except that when the equipment is sold, the proceeds shall be program income and equipment not needed by the Subrecipient for activities under this agreement shall be transferred to DEO for its CDBG-MIT program or shall be retained after compensating DEO.

The Subrecipient shall also comply with the Property Standards in 2 CFR 200.310 through 2 CFR 200.316, except to the extent they are inconsistent with 24 CFR 570.200(j) and 24 CFR 570.489(j), in which case Subrecipient shall comply with 24 CFR 570.200(j) and 24 CFR 570.489(j), except to the extent that proceeds from the sale of equipment are program income and subject to the program income requirements under this agreement, pursuant to 24 CFR 570.489(e)(1)(ii).

6. Federal Funding Accountability and Transparency Act (FFATA)

The Subrecipient shall comply with the requirements of 2 CFR part 25 Universal Identifier and System for Award Management (SAM). The Subrecipient must have an active registration in SAM, <https://www.sam.gov/SAM/> in accordance with 2 CFR part 25, appendix A, and must have a Data Universal Numbering System (DUNS) number <https://fedgov.dnb.com/webform/>. The Subrecipient must also comply with provisions of the Federal Funding Accountability and Transparency Act, which includes requirements on executive compensation, 2 CFR part 170 Reporting Subaward and Executive Compensation Information.

7. Relocation and Real Property Acquisition

The Subrecipient shall comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), 42 USC 4601 – 4655, 49 CFR part 24, 24 CFR part 42, and 24 CFR 570.606.

In addition to other URA requirements, these regulations (49 CFR § 24.403(d)) implement Section 414 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 USC § 5181, which provides that "Notwithstanding any other provision of law, no person otherwise eligible for any kind of replacement housing payment under the URA shall be denied such eligibility as a result of his being unable, because of a major disaster as determined by the President, to meet the occupancy requirements set by such Act".

8. Non-discrimination

a. 24 CFR Part 6

The Subrecipient will comply with 24 CFR part 6, which implements the provisions of section 109 of title I of the Housing and Community Development Act of 1974 (Title I) (42 U.S.C. 5309). Section 109 provides that no person in the United States shall, on the ground of race, color, national origin, religion or sex, be excluded from participation in, be denied the benefits of or be subjected to discrimination under any program or activity funded in whole or in part with Federal financial assistance. The Subrecipient will adhere to the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101-6107) (Age Discrimination Act) and the prohibitions against discrimination on the basis of disability under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) (Section 504). Section 109 of the HCDA makes these requirements applicable to programs or activities funded in whole or in part with CDBG-MIT funds. Thus, the Subrecipient shall comply with regulations of 24 CFR part 8, which implement Section 504 for HUD programs, and the regulations of 24 CFR part 146, which implement the Age Discrimination Act for HUD programs.

b. Architectural Barriers Act and the Americans with Disabilities Act

The Subrecipient shall ensure that its activities are consistent with requirements of Architectural Barriers Act and the Americans with Disabilities Act. The Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157) requires certain Federal and Federally funded buildings and other facilities to be designed, constructed, or altered in accordance with standards that ensure accessibility to, and use by, physically handicapped people. A building or facility designed, constructed or altered with funds allocated or reallocated under this part after December 11, 1995 and meets the definition of "residential structure" as defined in 24 CFR 40.2 or the definition of "building" as defined in 41 CFR 101-19.602(a) is subject to the requirements of the Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157) and shall comply with the Uniform Federal Accessibility Standards (appendix A to 24 CFR part 40 for residential structures, and appendix A to 41 CFR part 101-19, subpart 101-19.6, for general type buildings).

The Americans with Disabilities Act (42 U.S.C. 12131; 47 U.S.C. 155, 201, 218 and 225) (ADA) provides comprehensive civil rights to individuals with disabilities in the areas of employment, public accommodations, State and local government services and telecommunications. It further provides that discrimination includes a failure to design and construct facilities for first occupancy no later than January 26, 1993, that are readily accessible to and usable by individuals with disabilities. Further, the ADA requires the removal of architectural barriers and communication barriers that are structural in nature in existing facilities, where such removal is readily achievable—that is, easily accomplishable and able to be carried out without much difficulty or expense.

c. State and Local Nondiscrimination Provisions

The Subrecipient must comply with the Florida Small and Minority Business Assistance Act (§§ 288.703-288.706, F.S.); Title VI of the Civil Rights Act of 1964 (24 CFR part 1)

(1) General Compliance

The Subrecipient shall comply with the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352), as amended. No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity funded by this agreement. The specific nondiscrimination provisions at 24 CFR 1.4 apply to the use of these funds. The Subrecipient shall not intimidate, threaten, coerce or discriminate against any person for the purpose of interfering with any right or privilege secured by title VI of the Civil Rights Act of 1964 or 24 CFR part 1, or because he has made a complaint, testified, assisted or participated in any manner in an investigation, proceeding or hearing under 24 CFR part 1. The identity of complainants shall

be kept confidential except to the extent necessary to carry out the purposes of 2 CFR part 1, including the conduct of any investigation, hearing or judicial proceeding arising thereunder.

(2) Assurances and Real Property Covenants

As a condition to the approval of this Agreement and the extension of any Federal financial assistance, the Subrecipient assures that the program or activities described in this Agreement will be conducted and the housing, accommodations, facilities, services, financial aid or other benefits to be provided will be operated and administered in compliance with all requirements imposed by or pursuant to this part 1.

If the Federal financial assistance under this agreement is to provide or is in the form of personal property or real property or interest therein or structures thereon, the Subrecipient's assurance herein shall obligate the Subrecipient or, in the case of a subsequent transfer, the transferee, for the period during which the property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits, or for as long as the recipient retains ownership or possession of the property, whichever is longer. In all other cases, the assurance shall obligate the Subrecipient for the period during which Federal financial assistance is extended pursuant to the contract or application. This assurance gives DEO and the United States a right to seek judicial enforcement of the assurance and the requirements on real property.

In the case of real property, structures or improvements thereon, or interests therein, acquired with Federal financial assistance under this Agreement or acquired with CDBG-MIT funds and provided to the Subrecipient under this Agreement, the instrument effecting any disposition by the Subrecipient of such real property, structures or improvements thereon, or interests therein, shall contain a covenant running with the land assuring nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If the Subrecipient receives real property interests or funds or for the acquisition of real property interests under this Agreement, to the extent that rights to space on, over, or under any such property are included as part of the program receiving such assistance, the nondiscrimination requirements of this part 1 shall extend to any facility located wholly or in part in such space.

d. Affirmative Action

(1) Approved Plan

The Subrecipient agrees that it shall carry out pursuant to DEO's specifications an Affirmative Action Program in compliance with the President's Executive Order 11246 of September 24, 1966, as amended, and implementing regulations at 42 CFR 60. DEO shall provide Affirmative Action guidelines to the Subrecipient to assist in the formulation of such program. The Subrecipient shall submit a plan for an Affirmative Action Program for approval prior to the release of funds under this agreement.

(2) Women- and Minority-Owned Businesses (W/MBE)

The Subrecipient shall take the affirmative steps listed in 2 CFR 200.321(b)(1) through (5) to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible when the Subrecipient procures property or services under this agreement.

(3) Notifications

The Subrecipient will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's representative of the Subrecipient's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) Equal Employment Opportunity and Affirmative Action (EEO/AA) Statement

The Subrecipient shall, in all solicitations or advertisements for employees placed by or on behalf of the Subrecipient, state that it is an Equal Opportunity or Affirmative Action employer.

9. Labor and Employment  
Labor Standards

The Subrecipient shall comply with the in labor standards in Section 110 of the Housing and Community Development Act of 1974, as amended and ensure that all laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance received under this agreement shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis- Bacon Act, as amended (40 U.S.C. 3141, *et seq.*) and 29 CFR part 1, 3, 5, 6 and 7, provided, that this requirement shall apply to the rehabilitation of residential property only if such property contains not less than 8 units.

The Subrecipient agrees to comply with the Copeland Anti-Kick Back Act (18 U.S.C. 874) and its implementing regulations of the U.S. Department of Labor at 29 CFR part 3 and part 5. The Subrecipient shall maintain documentation that demonstrates compliance with applicable hour and wage requirements. Such documentation shall be made available to DEO for review upon request.

10. Section 3 of the Housing and Urban Development Act of 1968

a. Low-Income Person Definition

A low-income person, as this term is defined in Section 3 (b)(2) of the 1937 Act (42 U.S.C. 1437a(b)(2)). Section 3(b)(2) of the 1937 Act defines this term to mean families (including single persons) whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher and or lower than 80 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or unusually high or low—income families; or (ii) A very low-income person, as this term is defined in Section 3(b)(2) of the 1937 Act (42 U.S.C. 1437 a(b)(2)). Section 3(b)(2) of the 1937 Act (42 U.S.C. 1437a(b)(2)) defines this term to mean families (including single persons) whose incomes do not exceed 50 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.

b. Compliance

Subrecipient shall comply with the provisions of Section 3 of the Housing Urban Development Act of 1968, as amended, 12 USC 1701u, and implementing its implementing regulations at 24 CFR part 75 (formerly 24 CFR part 135). Compliance with Section 3 shall be achieved, to the greatest extent feasible, consistent with existing Federal, state and local laws and regulations. Accordingly, a subrecipient of Section 3-covered assistance is required to develop strategies for meeting both the regulatory requirements at 24 CFR part 75 and any other applicable statutes or regulations. Subrecipient and any of its contractors and subcontractors shall include the following "Section 3 clause" in every "Section 3-covered contract":

- (1) The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- (2) The parties to this contract agree to comply with HUD's regulations in 24 CFR part 75, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 75 regulations.
- (3) The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants

- for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- (4) The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 75, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 75. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 75.
  - (5) The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 75 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 75.F. Noncompliance with HUD's regulations in 24 CFR part 75 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
  - (6) Noncompliance with HUD's regulations in 24 CFR part 75 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
  - (7) With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

c.. Section 3 Benchmarks and Reporting

- A. Benchmarks. Contracts over \$200,000 trigger Section 3 Benchmark requirements. When triggered, best efforts must be made to extend Section 3 opportunities to verified Section 3 residents and business concerns to meet these *minimum* numeric goals:
1. Twenty-five percent (25%) of the total hours on a Section 3 project must be worked by Section 3 workers; and
  2. Five percent (5%) of the total hours on a Section 3 project must be worked by Targeted Section 3 workers.
- B. Reporting. If the subrecipient's reporting indicates that the subrecipient has not met the Section 3 benchmarks described in 24 CFR § 75.23, pursuant to 24 CFR § 75.25(b), the subrecipient must report in a form prescribed by HUD on the qualitative nature of its activities and those its contractors and subcontractors pursued.
- C. Recipient will comply with any Section 3 Project Implementation Plan documents provided by HUD or DEO which may be amended from time to time for HUD reporting purposes.

11. Conduct

a. Hatch Act

The Subrecipient shall comply with the Hatch Act, 5 USC 1501 – 1508, and shall ensure that no funds provided, nor personnel employed under this agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V of the U.S.C.

b. Conflict of Interest

In the procurement of supplies, equipment, construction, and services pursuant to this agreement, the Subrecipient shall comply with the conflict of interest provisions in DEO's procurement policies and procedures.

In all cases not governed by the conflict of interest provisions in DEO's procurement policies and procedures, the Subrecipient shall comply with the conflict of interest provisions in 24 CFR 570.489(h).

c. Lobbying Certification

The Subrecipient hereby certifies that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement;
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;
- (3) The language of paragraph (i) through (iv) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly; and
- (4) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is required by section 1352, title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

d. Religious Activities

The Subrecipient agrees that funds provided under this agreement shall not be utilized for inherently religious activities prohibited by 24 CFR 570.200(j), such as worship, religious instruction, or proselytization.

Equal Treatment for Faith-Based Organizations. Prohibits any State or local government receiving funds under any Department program, or any intermediate organization with the same duties as a governmental entity, from discriminating for or against an organization on the basis of the organization's religious character or affiliation. Prohibits religious organizations from engaging in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services funded with direct financial assistance.

Prohibits an organization that participates in programs funded by direct financial assistance from the Department, in providing services, from discriminating against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief. Any restrictions on the use of grant funds shall apply equally to religious and non-religious organizations.

e. Environmental Conditions

(1) Prohibition on Choice Limiting Activities Prior to Environmental Review

The Subrecipient must comply with the limitations in 24 CFR 58.22 even though the Subrecipient is not delegated the requirement under Section 104(g) of the HCD Act for environmental review, decision-making and action (see 24 CFR part 58) and is not delegated DEO's responsibilities for initiating the review process under the provisions of 24 CFR Part 52. 24 CFR 58.22 imposes limitations on activities pending clearance and specifically limits commitments of HUD funds or non-HUD funds by any participant in the development process before completion of the environmental review. A violation of this requirement may result in a prohibition on the use of Federal funds for the activity. If DEO has not issued an Authority to Use Grant Funds within 15 days of Subrecipient's submission of the required documentation, DEO shall provide the Subrecipient a written update regarding the status of the review process.

(2) Air and Water

The Subrecipient shall comply with the following requirements insofar as they apply to the performance of this agreement:

- (a) Air quality. (1) The Clean Air Act (42 U.S.C. 7401 et. seq.) as amended; particularly section 176(c) and (d) (42 U.S.C. 7506(c) and (d)); and (2) Determining Conformity of Federal Actions to State or Federal Implementation Plans (Environmental Protection Agency—40 CFR parts 6, 51, and 93); and

- (b) Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, *et seq.*, as amended, including the requirements specified in Section 114 and Section 308 of the Federal Water Pollution Control Act, as amended, and all regulations and guidelines issued thereunder.
  - (c) The Clean Air and Water Act: If this Contract is in excess of \$100,000, Contractor shall comply with all applicable standards, orders or regulations issued under the Clean Air Act, as amended, 42 U.S.C. 7401, Section 508 of the Clean Water Act, as amended, 33 U.S.C. 1368, *et seq.*, Executive Order 11738 and Environmental Protection Agency regulations. Contractor shall report any violation of the above to DEO.
  - (d) Energy Efficiency: Contractor shall comply with mandatory standards and policies relating to energy efficiency which are contained in the State of Florida's energy conservation plan issued in compliance with the Energy Policy and Conservation Act, Pub. L. 94-163.
- (3) **Flood Disaster Protection**  
The Subrecipient shall comply with the mandatory flood insurance purchase requirements of Section 102 of the Flood Disaster Protection Act of 1973, as amended by the National Flood Insurance Reform Act of 1994, 42 USC 4012a. Additionally, the Subrecipient shall comply with Section 582 of the National Flood Insurance Reform Act of 1994, as amended, (42 U.S.C. 5154a), which includes a prohibition on the provision of flood disaster assistance, including loan assistance, to a person for repair, replacement or restoration for damage to any personal, residential, or commercial property if that person at any time has received Federal flood disaster assistance that was conditioned on the person first having obtained flood insurance under applicable Federal law and the person has subsequently failed to obtain and maintain flood insurance as required under applicable Federal law on such property. Section 582 also includes a responsibility to notify property owners of their responsibility to notify transferees about mandatory flood purchase requirements. More information about these requirements is available in the Federal Register notices governing the CDBG-MIT award and listed at the beginning of this Attachment.
- (4) **Lead-Based Paint**  
The Subrecipient shall follow DEO's procedures with respect to CDBG assistance that fulfill the objectives and requirements of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at part 35, subparts A, B, J, K, and R of this title.
- (5) **Historic Preservation**  
The Subrecipient shall comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended, codified in title 54 of the United States Code, and the procedures set forth in 36 CFR part 800 insofar as they apply to the performance of this agreement.

In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, State, or local historic property list.

- (6) **Additional Regulations**
- (a) The Temporary Assistance for Needy Families Program ("TANF"), 45 CFR Parts 260-265, the Social Services Block Grant ("SSBG"), 42 U.S.C. 1397d, and other applicable federal regulations and policies promulgated thereunder.
  - (b) Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681, *et seq.*, which prohibits discrimination on the basis of sex in educational programs.
  - (c) Section 654 of the Omnibus Budget Reconciliation Act of 1981, as amended, 42 U.S.C. 9849, which prohibits discrimination on the basis of race, creed, color, national origin, sex, handicap, political affiliation or beliefs.
  - (d) The Pro-Children Act: Contractor agrees to comply with the Pro-Children Act of 1994, 20 U.S.C. 6083. Failure to comply with the provisions of the law may result in the imposition of civil monetary penalty up to \$1,000 for each violation and/or the imposition of an administrative compliance order on the responsible entity. This clause is applicable to all approved sub-contracts. In compliance with Public Law (Pub. L.) 103-277, the Contract shall not permit smoking in any portion of any indoor facility used for the provision of federally funded services including health, day care, early childhood development, education or library services on a routine or regular basis, to children up to age 18.

- (e) Public Announcements and Advertising: When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with federal money, Contractor shall clearly state (1) the percentage of the total costs of the program or project which will be financed with federal money, (2) the dollar amount of federal funds for the project or program, and (3) percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources.
- (f) Purchase of American-Made Equipment and Products: Contractor assures that, to the greatest extent practicable, all equipment and products purchased with funds made available under this Agreement will be American-made.
- (g) The Consolidated Appropriations Act, 2010, Division E, Section 511 (Pub. L. 111-117), which prohibits distribution of federal funds made available under the Act to the Association of Community Organizations for Reform Now (ACORN) or its subsidiaries. The Continuing Appropriations Act, 2011, Sections 101 and 103 (Pub. L. 111-242), provides that appropriations made under Pub. L. 111-117 are available under the conditions provided by Pub. L. 111-117.
- (h) Contract Work Hours and Safety Standards Act (40 U.S.C. §327–333) — If this Contract involves federal funding in excess of \$2,000 for construction contracts or in excess of \$2,500 for other contracts that involve the employment of mechanics or laborers, compliance with sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333), as supplemented by Department of Labor regulations (29 CFR Part 5) is required. Under section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1 ½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- (i) Resource Conservation and Recovery Act (RCRA). Under RCRA (Pub. L. 94–580 codified at 42 U.S.C. 6962), state and local institutions of higher education, hospitals, and non-profit organizations that receive direct Federal awards or other Federal funds shall give preference in their procurement programs funded with Federal funds to the purchase of recycled products pursuant to the EPA guidelines.
- (j) Immigration Reform and Control Act. Contractor shall comply with the requirements of the Immigration Reform and Control Act of 1986, which requires employment verification and retention of verification forms for any individuals hired who will perform any services under the contract.

When it is determined that the Subrecipient is in non-compliance with federal or state program requirements, the State may impose any of the additional conditions and/or requirements outlined in 2 CFR § 200.207.

## Attachment F – Civil Rights Compliance

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### Fair Housing

As a condition for the receipt of CDBG-MIT funds, each Subrecipient must certify that it will "affirmatively further fair housing" in its community. A Subrecipient shall demonstrate its commitment to affirmatively further fair housing by implementing the actions listed below.

Each Subrecipient shall do the following:

1. Have in place a fair housing resolution or ordinance that covers all Federally protected classes (race, color, familial status, handicap, national origin, religion and sex);
2. Designate an employee as the Fair Housing Coordinator who is available during regular business hours to receive fair housing calls;
3. Publish the Fair Housing Coordinator's contact information quarterly in a newspaper of general circulation in the Subrecipient's jurisdiction so that people know who to call to ask fair housing questions or register a complaint. Alternatively, the Subrecipient can post the coordinator's contact information throughout the quarter on the home page of its website;
4. Establish a system to record the following for each fair housing call:
  - a) The nature of the call,
  - b) The actions taken in response to the call,
  - c) The results of the actions taken and
  - d) If the caller was referred to another agency, the results obtained by the referral agency;
5. Conduct at least one fair housing activity each quarter. Identical activities (see examples below) shall not be conducted in consecutive quarters; and
6. Display a fair housing poster in the CDBG-MIT Office. (This does not count as a fair housing activity.)

The Subrecipient shall ensure that the fair housing contact person has received training so that he/she can handle fair housing phone inquiries or refer the inquiries to the appropriate people/agencies. Records maintained by the contact will help the community do the following:

1. Define where discriminatory practices are occurring,
2. Help the community measure the effectiveness of its outreach efforts, and
3. Provide the community with a means to gain information that can be used to design and implement strategies that will eliminate fair housing impediments.

Examples of fair housing activities include the following:

1. Making fair housing presentations at schools, civic clubs and neighborhood association meetings;
2. Conducting a fair housing poster contest or an essay contest;
3. Manning a booth and distributing fair housing materials at libraries, health fairs, community events, yard sales and church festivals; and
4. Conducting fair housing workshops for city/county employees, realtors, bank and mortgage company employees, insurance agents and apartment complex owners.

Printing a fair housing notice on a utility bill is no longer accepted as a fair housing activity; however, mailing a DEO-approved fair housing brochure as an insert with utility bills will be accepted as an activity. Placing posters in public buildings does not meet the requirement for a fair housing activity.

The Subrecipient shall document its fair housing activities by keeping photographs, newspaper articles, sign-in sheets and copies of handouts in their CDBG-MIT project file and include information about the activities in the comment section of each quarterly report.

### **Equal Employment Opportunity**

As a condition for the receipt of CDBG-MIT funds, each Subrecipient must certify that it and the contractors, subcontractors, subrecipients and consultants that it hires with CDBG-MIT funds will abide by the Equal Employment Opportunity (EEO) Laws of the United States. A Subrecipient shall demonstrate its commitment to abide by the laws through the actions listed below.

Each Subrecipient shall do the following:

1. Have in place an equal employment opportunity resolution or ordinance that protects its applicants and employees and the applicants and employees of its contractors, subcontractors, subrecipients and consultants from discrimination in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral and other aspects of employment, on the basis of race, color, religion, sex, national origin, disability, age or genetics;
2. Designate an employee as the EEO Coordinator who is available during regular business hours to receive EEO calls;
3. Publish the EEO Coordinator's contact information quarterly in a newspaper of general circulation in the Subrecipient's jurisdiction so that people know who to call to ask EEO questions or register a complaint. Alternatively, the Subrecipient can post the coordinator's contact information throughout the quarter on the home page of its website; and
4. Establish a system to record the following for each EEO call:
  - a) The nature of the call,
  - b) The actions taken in response to the call and
  - c) The results of the actions taken;
5. Each Subrecipient shall maintain a list of certified minority-owned business enterprises (MBE) and women-owned business enterprises (WBE) that operate in its region. The Subrecipient shall use this list to solicit companies to bid on CDBG-MIT-funded construction activities and shall provide a copy of the list to the prime contractor(s) to use when it hires subcontractors and consultants. The Department of Management Services maintains a list of certified minority- and women-owned businesses that can be used to develop a local MBE/WBE list at the following website: <https://osd.dms.myflorida.com/directories>.
6. Incorporate the Equal Employment Opportunity clause set forth in 41 CFR Part 60-1.4(b) into any contracts or subcontracts that meet the definition of "federally assisted construction contract" in 41 CFR 60-1.3.

### **Section 504 and the Americans with Disabilities Act (ADA)**

As a condition for the receipt of CDBG-MIT funds, the Subrecipient must certify that it provides access to all federally funded activities to all individuals, regardless of handicap. The Subrecipient shall demonstrate its commitment to abide by the laws through the actions listed below.

The Subrecipient shall do the following:

1. Have in place a resolution or ordinance that is designed to eliminate discrimination against any person who:
  - a) Has a physical or mental impairment which substantially limits one or more major life activities,
  - b) Has a record of such an impairment or
  - c) Is regarded as having such an impairment;
2. Designate an employee as the Section 504/ADA Coordinator who is available during regular business hours to receive Section 504/ADA calls;
3. Publish the Section 504/ADA Coordinator's contact information quarterly in a newspaper of general circulation in the Subrecipient's jurisdiction so that people know who to call to ask Section 504/ADA questions or register a complaint. Alternatively, the Subrecipient can post the coordinator's contact information throughout the quarter on the home page of its website; and
4. Establish a system to record the following for each Section 504/ADA call:
  - a) The nature of the call,
  - b) The actions taken in response to the call and

- c) The results of the actions taken.

Section 504 prohibitions against discrimination (see 45 CFR part 84) apply to service availability, accessibility, delivery, employment and the administrative activities and responsibilities of organizations receiving Federal financial assistance. A Subrecipient of Federal financial assistance may not, on the basis of disability:

1. Deny qualified individuals the opportunity to participate in or benefit from Federally funded programs, services or other benefits,
2. Deny access to programs, services, benefits or opportunities to participate as a result of physical barriers, or
3. Deny employment opportunities, including hiring, promotion, training and fringe benefits, for which they are otherwise entitled or qualified.

The ADA regulations (Title II, 28 CFR part 35, and Title III, 28 CFR part 36) prohibit discrimination on the basis of disability in employment, State and local government, public accommodations, commercial facilities, transportation, and telecommunications. To be protected by the ADA, one must have a disability or have a relationship or association with an individual with a disability.

Title II covers all activities of state and local governments regardless of the government entity's size or receipt of Federal funding. Title II requires that State and local governments give people with disabilities an equal opportunity to benefit from all of their programs, services and activities (e.g. public education, employment, transportation, recreation, health care, social services, courts, voting and town meetings). State and local governments are required to follow specific architectural standards in the new construction and alteration of their buildings. They also must relocate programs or otherwise provide access in inaccessible older buildings, and communicate effectively with people who have hearing, vision or speech disabilities.

Title III covers businesses and nonprofit service providers that are public accommodations, privately operated entities offering certain types of courses and examinations, privately operated transportation and commercial facilities. Public accommodations are private entities who own, lease, lease to or operate facilities such as restaurants, retail stores, hotels, movie theaters, private schools, convention centers, doctors' offices, homeless shelters, transportation depots, zoos, funeral homes, day care centers and recreation facilities including sports stadiums and fitness clubs. Transportation services provided by private entities are also covered by Title III.

### **Section 3 - Economic Opportunities for Low- and Very Low-Income Persons**

Each Subrecipient shall encourage its contractors to hire qualified low- and moderate-income residents for any job openings that exist on CDBG-MIT-funded projects in the community. The Subrecipient and its contractors shall keep records to document the number of low- and moderate-income people who are hired to work on CDBG-MIT-funded projects. The number of low- and moderate-income residents who are hired to work of the project shall be reported in the comment section of the quarterly report.

The following Section 3 clause is required to be included in CDBG-MIT-funded contracts of \$100,000 or more:

#### **Section 3 Clause**

1. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. § 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are Subrecipients of HUD assistance for housing.
2. The Parties to this contract agree to comply with HUD's regulations in 24 CFR part 75, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 75 regulations.
3. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the

notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

4. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 75, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 75. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 75.
5. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 75 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 75.
6. Noncompliance with HUD's regulations in 24 CFR part 75 may result in sanctions, termination of this contract for default and debarment or suspension from future HUD assisted contracts.
7. With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. § 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

### **Civil Rights Regulations**

As a condition for the receipt of CDBG-MIT funds, each Subrecipient must certify that it will abide by the following Federal laws and regulations:

1. Title VI of the Civil Rights Act of 1964 – Prohibits discrimination by government agencies that receive Federal funding;
2. Title VII of the Civil Rights Act of 1964 – prohibits employment discrimination on the basis of race, color, religion, sex or national origin;
3. Title VIII of the Civil Rights Act of 1968 – as amended (the Fair Housing Act of 1988);
4. 24 CFR § 570.487(b) – Affirmatively Furthering Fair Housing;
5. 24 CFR § 570.490(b) – Unit of general local government's record;
6. 24 CFR § 570.606(b) – Relocation assistance for displaced persons at URA levels;
7. Age Discrimination Act of 1975;
8. Executive Order 12892 – Leadership and Coordination of Fair Housing in Federal Programs: Affirmatively Furthering Fair Housing;
9. Section 109 of the Housing and Community Development Act of 1974 – No person shall be excluded from participation in, denied benefits of or subjected to discrimination under any program or activity receiving CDBG-MIT funds because of race, color, religion, sex or national origin;
10. Section 504 of the Rehabilitation Act of 1973 and 24 CFR part 8, which prohibits discrimination against people with disabilities;
11. Executive Order 11063 – Equal Opportunity in Housing;
12. Executive Order 11246 – Equal Employment Opportunity; and
13. Section 3 of the Housing and Urban Development Act of 1968, as amended – Employment/Training of Lower Income Residents and Local Business Contracting.

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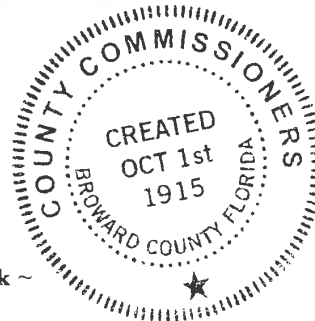
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I hereby certify that Broward County shall comply with all of the provisions and Federal regulations listed in this Attachment F.

By: *Kimmi Campbell for MC* Date: 5/24/22

Name: Monica Cepero

Title: County Administrator



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### Attachment G – Reports

**The following reports must be completed and submitted to DEO in the time frame indicated below. Failure to timely file these reports constitutes an Event of Default, as defined in Paragraph (10) Default, of this Agreement.**

1. **Monthly Progress Report** must be submitted to DEO ten (10) calendar days after the end of each month.
2. A **Quarterly Progress Report** must be submitted to DEO on forms to be provided by DEO no later than the 10<sup>th</sup> of every April, July, October and January.
3. A **Contract and Subcontract Activity** form, Form HUD-2516, currently available at [https://www.hud.gov/sites/documents/DOC\\_36660](https://www.hud.gov/sites/documents/DOC_36660); which is incorporated herein by reference, must be submitted by April 15 and October 15 each year through the DEO's SERA reporting system. The form must reflect all contractual activity for the period, including Minority Business Enterprise and Woman Business Enterprise participation. If no activity has taken place during the reporting period, the form must indicate "no activity".

The Subrecipient shall closeout its use of the CDBG-MIT funds and its obligations under this Agreement by complying with the closeout procedures in 2 CFR § 200.343. Activities during this close-out period may include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances and accounts receivable to the Subrecipient) and determining the custodianship of records.

Notwithstanding the terms of 2 CFR 200.343, upon the expiration of this Agreement, the Subrecipient shall transfer to the recipient any CDBG-MIT funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG-MIT funds. Further, any real property under the Subrecipient's control that was acquired or improved in whole or in part with CDBG-MIT funds (including CDBG-MIT funds provided to the Subrecipient in the form of a loan) shall be treated in accordance with 24 CFR 570.503(b)(7).

4. In accordance with 2 CFR part 200, should the Subrecipient meet the threshold for submission of a single or program specific audit, the audit must be conducted in accordance with 2 CFR part 200 and submitted to DEO no later than nine months from the end of the Subrecipient's fiscal year. If the Subrecipient did not meet the audit threshold, an **Audit Certification Memo** must be provided to DEO no later than nine months from the end of the Subrecipient's fiscal year.
5. A copy of the **Audit Compliance Certification** form, Attachment J, must be emailed to [audit@deo.myflorida.com](mailto:audit@deo.myflorida.com) within sixty (60) calendar days of the end of each fiscal year in which this subgrant was open.
6. The **Section 3 Summary Report**, form HUD-60002, must be completed and submitted through DEO's SERA reporting system by July 31, annually. The form must be used to report annual accomplishments regarding employment and other economic opportunities provided to persons and businesses that meet Section 3 requirements.
7. Request for Funds must be submitted as required by DEO and in accordance with the ***Project Description and Deliverables, Project Detail Budget and Activity Work Plan***.
8. All forms referenced herein are available online or upon request from DEO's grant manager for this Agreement.

## Attachment H – Warranties and Representations

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### Financial Management

The Subrecipient's financial management system must comply with the provisions of 2 CFR part 200 (and particularly 2 C.F.R 200.302 titled "Financial Management"), Section 218.33, F.S., and include the following:

1. Accurate, current and complete disclosure of the financial results of this project or program.
2. Records that identify the source and use of funds for all activities. These records shall contain information pertaining to grant awards, authorizations, obligations, unobligated balances, assets, outlays, income and interest.
3. Effective control over and accountability for all funds, property and other assets. The Subrecipient shall safeguard all assets and assure that they are used solely for authorized purposes.
4. Comparison of expenditures with budget amounts for each Request for Funds (RFF). Whenever appropriate, financial information should be related to performance and unit cost data.
5. Written procedures to determine whether costs are allowed and reasonable under the provisions of the 2 CFR part 200 (and particularly 2 CFR 200 Subpart E titled "Costs Principles") and the terms and conditions of this Agreement.
6. Cost accounting records that are supported by backup documentation.

### Competition

All procurement transactions must follow the provisions of 2 CFR §§ 200.318-200.327 and be conducted in a manner providing full and open competition. The Subrecipient shall be alert to conflicts of interest as well as noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, invitations for bids or requests for proposals shall be excluded from competing for such procurements. Awards must be made to the responsible and responsive bidder or offeror whose proposal is most advantageous to the program, considering the price, quality and other factors. Solicitations shall clearly set forth all requirements that the bidder or offeror must fulfill in order for the bid or offer to be evaluated by the Subrecipient. Any and all bids or offers may be rejected if there is a sound, documented reason.

### Codes of Conduct

The Subrecipient shall maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts. No employee, officer or agent shall participate in the selection, award or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict would arise when the employee, officer or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated, has a financial or other interest in a tangible personal benefit from a firm considered for a contract. The officers, employees and agents of the Subrecipient shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors or parties to subcontracts. The standards of conduct must provide for disciplinary actions to be applied for violations of the standards by officers, employees or agents of the Subrecipient. (*See* 2 CFR § 200.318(c)(1).)

### Business Hours

The Subrecipient shall have its offices open for business, with the entrance door open to the public, and at least one employee on site at all reasonable times for business. "Reasonable" shall be construed according to circumstances, but ordinarily shall mean normal business hours of 8:00 a.m. to 5:00 p.m., local time, Monday through Friday.

### Licensing and Permitting

All contractors or employees hired by the Subrecipient shall have all current licenses and permits required for all of the particular work for which they are hired by the Subrecipient.

## **Attachment I – Audit Requirements**

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The administration of resources awarded by DEO to the Subrecipient may be subject to audits and/or monitoring by DEO as described in this section.

### **MONITORING**

In addition to reviews of audits conducted in accordance with 2 CFR 200 Subpart F - Audit Requirements, and section 215.97, F.S., as revised (see “AUDITS” below), monitoring procedures may include, but not be limited to, on-site visits by DEO staff, limited scope audits as defined by 2 CFR §200.425, or other procedures. By entering into this Agreement, the Subrecipient agrees to comply and cooperate with any monitoring procedures or processes deemed appropriate by DEO. In the event DEO determines that a limited scope audit of the Subrecipient is appropriate, the Subrecipient agrees to comply with any additional instructions provided by DEO staff to the Subrecipient regarding such audit. The Subrecipient further agrees to comply and cooperate with any inspections, reviews, investigations or audits deemed necessary by the Chief Financial Officer (CFO) or Auditor General.

### **AUDITS**

**PART I: FEDERALLY FUNDED.** This part is applicable if the Subrecipient is a state or local government or nonprofit organization as defined in 2 CFR §200.90, §200.64, and §200.70.

1. A Subrecipient that expends \$750,000 or more in federal awards in its fiscal year must have a single or program-specific audit conducted in accordance with the provisions of 2 CFR 200, Subpart F - Audit Requirements. EXHIBIT 1 to this form lists the federal resources awarded through DEO by this agreement. In determining the federal awards expended in its fiscal year, the Subrecipient shall consider all sources of federal awards, including federal resources received from DEO. The determination of amounts of federal awards expended should be in accordance with the guidelines established in 2 CFR §§200.502-503. An audit of the Subrecipient conducted by the Auditor General in accordance with the provisions of 2 CFR §200.514 will meet the requirements of this Part.
2. For the audit requirements addressed in Part I, paragraph 1, the Subrecipient shall fulfill the requirements relative to auditee responsibilities as provided in 2 CFR §§200.508-512.
3. A Subrecipient that expends less than \$750,000 in federal awards in its fiscal year is not required to have an audit conducted in accordance with the provisions of 2 CFR 200, Subpart F - Audit Requirements. If the Subrecipient expends less than \$750,000 in federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR 200, Subpart F - Audit Requirements, the cost of the audit must be paid from non-federal resources (i.e., the cost of such an audit must be paid from Subrecipient resources obtained from other than federal entities).

**PART II: STATE FUNDED.** This part is applicable if the Subrecipient is a non-state entity as defined by Section 215.97(2), F.S.

1. In the event that the Subrecipient expends a total amount of state financial assistance equal to or in excess of \$750,000 in any fiscal year of such Subrecipient (for fiscal years ending June 30, 2017, and thereafter), the Subrecipient must have a state single or project-specific audit for such fiscal year in accordance with section 215.97, F.S.; Rule Chapter 69I-5, F.A.C., State Financial Assistance; and Chapters 10.550 (local governmental entities) and 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. EXHIBIT 1 to this form lists the state financial assistance awarded through DEO by this agreement. In determining the state financial assistance expended in its fiscal year, the Subrecipient shall consider all sources of state financial assistance, including state financial assistance received from DEO, other state agencies, and other nonstate entities. State financial assistance does not include federal direct or pass-through awards and resources received by a nonstate entity for federal program matching requirements.
2. For the audit requirements addressed in Part II, paragraph 1, the Subrecipient shall ensure that the audit complies with the requirements of section 215.97(8), F.S. This includes submission of a financial reporting

package as defined by section 215.97(2), F.S., and Chapters 10.550 (local governmental entities) and 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.

3. If the Subrecipient expends less than \$750,000 in state financial assistance in its fiscal year (for fiscal years ending June 30, 2017, and thereafter), an audit conducted in accordance with the provisions of section 215.97, F.S., is not required. If the Subrecipient expends less than \$750,000 in state financial assistance in its fiscal year and elects to have an audit conducted in accordance with the provisions of section 215.97, F.S., the cost of the audit must be paid from the nonstate entity's resources (i.e., the cost of such an audit must be paid from the Subrecipient's resources obtained from other than state entities).

### **PART III: OTHER AUDIT REQUIREMENTS**

*(NOTE: This part would be used to specify any additional audit requirements imposed by the State awarding entity that are solely a matter of that State awarding entity's policy (i.e., the audit is not required by Federal or State laws and is not in conflict with other Federal or State audit requirements). Pursuant to Section 215.97(8), F.S., State agencies may conduct or arrange for audits of state financial assistance that are in addition to audits conducted in accordance with Section 215.97, F.S. In such an event, the State awarding agency must arrange for funding the full cost of such additional audits.)*

N/A

### **PART IV: REPORT SUBMISSION**

1. Copies of reporting packages for audits conducted in accordance with 2 CFR 200, Subpart F - Audit Requirements, and required by Part I of this form shall be submitted, when required by 2 CFR § 200.512, by or on behalf of the Subrecipient directly to the Federal Audit Clearinghouse (FAC) as provided in 2 CFR § 200.36 and §200.512.

The FAC's website provides a data entry system and required forms for submitting the single audit reporting package. Updates to the location of the FAC and data entry system may be found at the OMB website.

2. Copies of financial reporting packages required by Part II of this form shall be submitted by or on behalf of the Subrecipient directly to each of the following:
  - a. DEO at each of the following addresses:

Electronic copies (preferred):      or  
[Audit@deo.myflorida.com](mailto:Audit@deo.myflorida.com)

Paper (hard copy):  
Department Economic Opportunity  
MSC # 75, Caldwell Building  
107 East Madison Street  
Tallahassee, FL 32399-4126

- b. The Auditor General's Office at the following address:

Auditor General  
Local Government Audits  
342 Claude Pepper Building, Room 401  
111 West Madison Street  
Tallahassee, Florida 32399-1450

The Auditor General's website (<https://flauditor.gov/>) provides instructions for filing an electronic copy of a financial reporting package.

3. Copies of reports or the management letter required by Part III of this form shall be submitted by or on behalf of the Subrecipient directly to:

Electronic copies (preferred):  
[Audit@deo.myflorida.com](mailto:Audit@deo.myflorida.com)

or

Paper (hard copy):  
Department Economic Opportunity  
MSC # 75, Caldwell Building  
107 East Madison Street  
Tallahassee, FL. 32399-4126

4. Any reports, management letters, or other information required to be submitted DEO pursuant to this agreement shall be submitted timely in accordance with 2 CFR §200.512, section 215.97, F.S., and Chapters 10.550 (local governmental entities) and 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.
5. Subrecipients, when submitting financial reporting packages to DEO for audits done in accordance with 2 CFR 200, Subpart F - Audit Requirements, or Chapters 10.550 (local governmental entities) and 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date that the reporting package was delivered to the Subrecipient in correspondence accompanying the reporting package.

**PART V: RECORD RETENTION.** The Subrecipient shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of five (5) years from the date the audit report is issued, or six (6) state fiscal years after all reporting requirements are satisfied and final payments have been received, whichever period is longer, and shall allow DEO, or its designee, CFO, or Auditor General access to such records upon request. The Subrecipient shall ensure that audit working papers are made available to DEO, or its designee, CFO, or Auditor General upon request for a period of six (6) years from the date the audit report is issued, unless extended in writing by DEO. In addition, if any litigation, claim, negotiation, audit, or other action involving the records has been started prior to the expiration of the controlling period as identified above, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the controlling period as identified above, whichever is longer.

**Exhibit 1 to Attachment I – Funding Sources**

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**Federal Resources Awarded to the Subrecipient Pursuant to this Agreement Consist of the Following:**

**Federal Awarding Agency:** U.S. Department of Housing and Urban Development

**Federal Funds Obligated to Subrecipient:** **\$6,250,000.00**

**Catalog of Federal Domestic Assistance Title:** Community Development Block Grants/State’s Program and Non-Entitlement Grants in Hawaii

**Catalog of Federal Domestic Assistance Number:** 14.228

**Project Description:** Funding is being provided for installation of 3.5 mile interconnect between water treatment facilities.

*This is not a research and development award.*

**Compliance Requirements Applicable to the Federal Resources Awarded Pursuant to this Agreement are as Follows:**

**Federal Program**

1. The Subrecipient shall perform its obligations in accordance with Sections 290.0401- 290.048, F.S.
2. The Subrecipient shall perform its obligations in accordance with 24 CFR §§ 570.480 – 570.497.
3. The Subrecipient shall perform the obligations as set forth in this Agreement, including any attachments or exhibits thereto.
4. The Subrecipient shall perform the obligations in accordance with chapter 73C-23.0051(1) and (3), F.A.C.
5. The Subrecipient shall be governed by all applicable laws, rules and regulations, including, but not necessarily limited to, those identified in Award Terms & Conditions and Other Instructions of the Subrecipient’s Notice of Subgrant Award/Fund Availability (NFA).

**State Resources Awarded to the Subrecipient Pursuant to this Agreement Consist of the Following:** *N/A*

**Matching Resources for Federal Programs:** *N/A*

**Subject to Section 215.97, Florida Statutes:** *N/A*

**Compliance Requirements Applicable to State Resources Awarded Pursuant to this Agreement are as Follows:**  
*N/A*

NOTE: Title 2 CFR § 200.331 and Section 215.97(5), F.S., require that the information about Federal Programs and State Projects included in Exhibit 1 and the Notice of Subgrant Award/Fund Availability be provided to the Subrecipient.

**Attachment J – Audit Compliance Certification**

<b><i>Email a copy of this form within 60 days of the end of each fiscal year in which this subgrant was open to audit@deo.myflorida.com.</i></b>	
Subrecipient:	
FEIN:	Subrecipient's Fiscal Year:
Contact Name:	Contact's Phone:
Contact's Email:	
<p>1. Did the Subrecipient expend state financial assistance, during its fiscal year that it received under any agreement (e.g., contract, grant, memorandum of agreement, memorandum of understanding, economic incentive award agreement, etc.) between the Subrecipient and the Department of Economic Opportunity (DEO)? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If the above answer is yes, answer the following before proceeding to item 2.</p> <p>Did the Subrecipient expend \$750,000 or more of state financial assistance (from DEO and all other sources of state financial assistance combined) during its fiscal year? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>If yes, the Subrecipient certifies that it will timely comply with all applicable State single or project-specific audit requirements of Section 215.97, Florida Statutes and the applicable rules of the Department of Financial Services and the Auditor General.</b></p>	
<p>2. Did the Subrecipient expend federal awards during its fiscal year that it received under any agreement (e.g., contract, grant, memorandum of agreement, memorandum of understanding, economic incentive award agreement, etc.) between the Subrecipient and DEO? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If the above answer is yes, also answer the following before proceeding to execution of this certification:</p> <p>Did the Subrecipient expend \$750,000 or more in federal awards (from DEO and all other sources of federal awards combined) during its fiscal year? <input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><b>If yes, the Subrecipient certifies that it will timely comply with all applicable single or program-specific audit requirements of 2 CFR part 200, subpart F, as revised.</b></p>	
<b>By signing below, I certify, on behalf of the Subrecipient, that the above representations for items 1 and 2 are true and correct.</b>	
Signature of Authorized Representative	Date
Printed Name of Authorized Representative	Title of Authorized Representative

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**Attachment K – Subrecipient Enterprise Resource Application (SERA) Form**

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**Attachment K will be provided after execution of this Agreement**

## Attachment L

### 2 CFR Appendix II to Part 200 - Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

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#### Appendix II to Part 200 - Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

**(A)** Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

**(B)** All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be affected and the basis for settlement.

**(C)** Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

**(D)** Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

**(E)** Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to

construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

**(F)** Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

**(G)** Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended - Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

**(H)** Debarment and Suspension (Executive Orders 12549 and 12689) - A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

**(I)** Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) - Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

**(J)** See 200.323 – Procurement of Recovered Materials.

**(K)** See 200.216 – Prohibition on certain telecommunications and video surveillance services or equipment.

**(L)** See 200.322 – Domestic Preferences for procurements.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75888, Dec. 19, 2014; 85 FR 49577, Aug. 13, 2020]

**Attachment M**

**State of Florida  
Department of Economic Opportunity**

**Federally Funded  
Community Development Block Grant  
Disaster Recovery (CDBG-MIT) Subrogation Agreement**

This Subrogation and Assignment Agreement (“Agreement”) is made and entered into by and between the Broward County Board of County Commissioners (hereinafter referred to as “Subrecipient”) and the State of Florida, Department of Economic Opportunity (hereinafter referred to as “DEO”).

In consideration of Subrecipient’s receipt of funds or the commitment by DEO to evaluate Subrecipient’s application for the receipt of funds (collectively, the “Grant Proceeds”) under the DEO Community Development Block Grant-Mitigation Program (the “CDBG-MIT Program”) administered by DEO, Subrecipient hereby assigns to DEO all of Subrecipient’s future rights to reimbursement and all payments received from any grant, subsidized loan, lawsuit or insurance policies of any type or coverage or under any reimbursement or relief program related to or administered by the Federal Emergency Management Agency (“FEMA”) or the Small Business Administration (“SBA”) (singularly, a “Disaster Program” and collectively, the “Disaster Programs”) that was the basis of the calculation of Grant Proceeds paid or to be paid to Subrecipient under the CDBG-MIT Program and that are determined in the sole discretion of DEO to be a duplication of benefits (“DOB”) as provided in this Agreement.

The proceeds or payments referred to in the preceding paragraph, whether they are from insurance, FEMA or the SBA or any other source, and whether or not such amounts are a DOB, shall be referred to herein as “Proceeds,” and any Proceeds that are a DOB shall be referred to herein as “DOB Proceeds.” Upon receiving any Proceeds, Subrecipient agrees to immediately notify DEO who will determine in its sole discretion if such additional amounts constitute a DOB. If some or all of the Proceeds are determined to be a DOB, the portion that is a DOB shall be paid to DEO, to be retained and/or disbursed as provided in this Agreement. The amount of DOB determined to be paid to DEO shall not exceed the amount received from the CDBG-MIT Program.

Subrecipient agrees to assist and cooperate with DEO to pursue any of the claims Subrecipient has against the insurers for reimbursement of DOB Proceeds under any such policies. Subrecipient’s assistance and cooperation shall include but shall not be limited to allowing suit to be brought in Subrecipient’s name(s) and providing any additional documentation with respect to such consent, giving depositions, providing documents, producing record and other evidence, testifying at trial and any other form of assistance and cooperation reasonably requested by DEO. Subrecipient further agrees to assist and cooperate in the attainment and collection of any DOB Proceeds that the Subrecipient would be entitled to under any applicable Disaster Program.

If requested by DEO, Subrecipient agrees to execute such further and additional documents and instruments as may be requested to further and better assign to DEO, to the extent of the Grant Proceeds paid to Subrecipient under the CDBG-MIT Program, the Policies, any amounts received under the Mitigation Programs that are DOB Proceeds and/or any rights thereunder, and to take, or cause to be taken, all actions and to do, or cause to be done, all things requested by DEO to consummate and make effective the purposes of this Agreement.

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Subrecipient explicitly allows DEO to request of any company with which Subrecipient held insurance policies, or FEMA or the SBA or any other entity from which Subrecipient has applied for or is receiving Proceeds, any non-public or confidential information determined to be reasonably necessary by DEO to monitor/enforce its interest in the rights assigned to it under this Agreement and give Subrecipient's consent to such company to release said information to DEO.

If Subrecipient (or any lender to which DOB Proceeds are payable to such lender, to the extent permitted by superior loan documents) hereafter receives any DOB Proceeds, Subrecipient agrees to promptly pay such amounts to DEO, if Subrecipient received Grant Proceeds under the CDBG-MIT Program in an amount greater than the amount Subrecipient would have received if such DOB Proceeds had been considered in the calculation of Subrecipient's award.

In the event that the Subrecipient receives or is scheduled to receive any subsequent Proceeds, Subrecipient shall pay such subsequent Proceeds directly to DEO, and DEO will determine the amount, if any, of such subsequent Proceeds that are DOB Proceeds ("Subsequent DOB Proceeds"). Subsequent Proceeds in excess of Subsequent DOB Proceeds shall be returned to the Subrecipient. Subsequent DOB Proceeds shall be disbursed as follows:

1. If the Subrecipient has received full payment of the Grant Proceeds, any Subsequent DOB Proceeds shall be retained by DEO.
2. If the Subrecipient has received no payment of the Grant Proceeds, any Subsequent DOB Proceeds shall be used by DEO to reduce payments of the Grant Proceeds to the Subrecipient, and all Subsequent DOB Proceeds shall be returned to the Subrecipient.
3. If the Subrecipient has received a portion of the Grant Proceeds, any Subsequent DOB Proceeds shall be used, retained and/or disbursed in the following order: (A) Subsequent DOB Proceeds shall first be used to reduce the remaining payments of the Grant Proceeds, and Subsequent DOB Proceeds in such amount shall be returned to the Subrecipient; and (B) any remaining Subsequent DOB Proceeds shall be retained by DEO.
4. If DEO makes the determination that the Subrecipient does not qualify to participate in the CDBG-MIT Program or the Subrecipient determines not to participate in the CDBG-MIT Program, the Subsequent DOB Proceeds shall be returned to the Subrecipient, and this Agreement shall terminate.

Once DEO has recovered an amount equal to the Grant Proceeds paid to Subrecipient, DEO will reassign to Subrecipient any rights assigned to DEO pursuant to this Agreement.

Subrecipient represents that all statements and representations made by Subrecipient regarding Proceeds received by Subrecipient shall be true and correct as of the date of the signing of this Agreement.

**Warning:** Any person who intentionally or knowingly makes a false claim or statement to HUD may be subject to civil or criminal penalties under 18 U.S.C. 287, 1001 and 31 U.S.C. 3729.

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