

City of Marco Island Florida



CONTRACT BIDDING DOCUMENTS FOR:

Water Quality Treatment Exfiltration Swales-S. Collier Blvd

ITB# 2025-027

April 20, 2025

CITY OF MARCO ISLAND
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Water Quality Treatment Exfiltration Swales-S. Collier Blvd

ITB# 2025-027

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A. PUBLIC NOTICE/ LEGAL ADVERTISEMENT

PUBLIC NOTICE
MARCO ISLAND, FLORIDA
INVITATION TO BID

Water Quality Treatment Exfiltration Swales-S. Collier Blvd
ITB# 2025-027

Electronic Bids will be received at www.Demandstar.com, until 2:00 PM (EST) on May 27, 2025.

A non-mandatory site visit will take place on May 01, 2025 at 10am, at the Public Works Administration Conference Room, 1310 San Marco Rd., Marco Island 34145.

GENERAL DESCRIPTION – PLEASE REFER TO PROJECT PLANS AND SPECIFICATIONS FOR DETAILED REQUIREMENTS

The proposed work includes the construction of exfiltration swales along Collier Blvd., from the intersection of Huron St. to the end of the cul-de-sac on Collier Ct. Work includes, but is not limited to, excavation, grading, installation of perforated drainage pipe, filter fabric, drainage rock, sodding, and site restoration. All work will be performed per the plans and specifications and under applicable standards and permitting requirements.

The work is scheduled to take place during normal business hours between 7:00 a.m. to 5:00 p.m.

Information and Bidding Documents can be obtained by downloading from www.demandstar.com. Please direct questions to Angela Johenning, Purchasing and Risk Manager at: ajohenning@cityofmarcoisland.com; or (239) 389-5011; or 50 Bald Eagle Drive, Marco Island, Florida 34145.

Dated this April 20, 2025.

By: Michael A. McNees, City Manager

Published in Naples Daily News on 04/20/2025

B. INSTRUCTIONS TO BIDDERS

Respondents to this solicitation or person acting on their behalf may not contact between the release of the solicitation and the end of the end of 72-hour period following the agency posting the notice of intended award, excluding weekends and state holidays, any employee or officer of the executive or legislative branch concerning any aspects of this solicitation, except in writing to the procurement officer as provided in the solicitation documents. Violation of this provision may be grounds for disqualification.

MILESTONE DATES

Event	Date	Time
Legal advertisement	04/20/2025	
Pre-Bid Meeting	05/01/2025	10:00 AM
Questions Due	05/07/2025	5:00 PM
Answers & Addendum	05/14/2025	5:00 PM
Bid Opening	5/27/2025	2:00 PM
City Council Approval	6/16/2025	5:30 PM
Notice to Proceed	Shortly after 6/16/2025	

Section 1 **Definitions**

1.1 The term "Owner" used herein refers to the City Council of the City of Marco Island, or the City Manager as its duly authorized representative.

1.2 The term "Project Manager" used herein refers to the Owner's duly authorized representative.

1.3 The term "Design Professional" refers to the licensed professional engineer or architect who is under contract with the Owner for the purpose of designing and/or monitoring construction of the project. Any or all duties of the Design Professional referenced under this Agreement may be assumed at any time by the Project Manager on behalf of the Owner. Conversely, the Project Manager may formally assign any of his/her duties specified in this agreement to the Design Professional.

1.4 The term "Bidder" used herein means a duly authorized firm that submits a bid directly to the Owner in response to this solicitation.

1.5 The term "Successful Bidder" means the lowest qualified, most responsible and most responsive Bidder who is awarded the contract by the City, on the basis of the Owner's evaluation.

1.6 The term "Contract Bidding Documents" includes the Legal Advertisement, the Instructions to Bidders, the Bid Schedule and the Contract Documents as defined in the Agreement. The term "Bidding Documents" shall be deemed to mean the same as and shall be used interchangeably with the terms "Contract Bidding Documents" and "Contract Documents".

1.7 The term "Bid" shall mean a **completed Bid Schedule, bound in the Contract Bidding Documents**, properly signed, providing the Owner a proposed cost for providing the services or Work required in the Contract Bidding Documents.

1.8 The term "Responsible bidder" means a person or firm who has submitted a bid and has the capability in all respects to perform fully the contract requirements and the tenacity, perseverance, experience, integrity, reliability, capacity facilities, equipment and credit which will ensure good-faith performance.

Section 2

Preparation of Bids

2. The bids must be submitted on the standard form herein furnished by the Owner (as contained in these Bidding Documents). The Bidder shall complete the bid in ink or electronically and shall sign the Bid correctly. The bid may be rejected if it contains any omission, alteration of form, conditional bid or irregularities of any kind.

Bids must be submitted through www.Demandstar.com by the due date listed in the Milestone Dates. The City is not responsible for late submissions due to technical issues.

Section 3

Bid Deposit Requirements

3.1 No Bid shall be considered or accepted unless at the time of Bid filing the same shall be accompanied by a cashier's check, a cash bond posted with the City of Marco Island, a certified check payable to Owner on some bank or trust company located in the State of Florida insured by the Federal Deposit Insurance Corporation, or Bid Bond, in an amount not less than 5% of **the bidder's maximum possible award (base bid plus all add alternates)** (collectively referred to herein as the "Bid Deposit"). The Bid Deposit shall be retained by Owner as liquidated damages if the Successful Bidder fails to execute and deliver to the City the Agreement, or fails to deliver the required Performance and Payment Bonds or Certificates of Insurance, all within ten (10) calendar days after receipt of the Notice of Award. Bid Bonds shall be executed by a corporate surety licensed under the laws of the State of Florida to execute such bonds, with conditions that the surety will, upon demand, forthwith make payment to Owner upon said bond. Bid Deposits of the three (3) lowest Bidders shall be held until the Agreement has been executed by the Successful Bidder and same has been delivered to Owner together with the required bonds and insurance, after which all three (3) Bid Deposits shall be returned to the respective Bidders. All other Bid Deposits shall be released within ten (10) working days of the Bid Opening. No Bid including alternates shall be withdrawn within one hundred and twenty (120) days after the public opening thereof. If a Bid is not accepted within said time period, it shall be deemed rejected and the Bid Deposit shall be returned to Bidder. In the event that the Owner awards the contract prior to the expiration of the 120-day period without selecting any or all alternates, the Owner shall retain the right to subsequently award said alternates at a later time but no later than 120 days from the contract award date.

3.2 The Successful Bidder shall execute a minimum of two (2) originals of the Agreement and

deliver same to Owner within the time period noted above. The Owner shall subsequently execute same and will return one fully executed original of the Agreement to Successful Bidder within thirty (30) working days after receipt of the executed Agreement from Successful Bidder unless any governmental agency having funding control over the Project requires additional time, in which event the Owner shall have such additional time to execute the Agreement as may be reasonably necessary.

Section 4

Right to Reject Proposals

4.1 In accordance with State law and City ordinances, the City reserves the right to reject bids for administrative, including contractor responsiveness and/or contractor responsibility, or budgetary reasons, unbalanced bids, reject any individual bid that does not conform to the intent and purpose of the Contract Bidding Documents, bid from any person or entity that has failed or is failing to properly perform similar work for the City, failed to satisfy claims on previous or current contracts with the City, or has previously failed to perform properly or complete, on time, contracts of a similar nature. The prospective contractors shall be aware that performance as a prime contractor or subcontractor on previous or current City contracts or any current or past (within last 5 years) litigation against the City might be taken into account in evaluating proposals received for this contract. Furthermore, the City reserves the right to postpone award of the contract for a period of time which shall not extend beyond 120 calendar days from the bid opening date. The Owner reserves the right to waive formalities and negotiate directly with the apparent lowest and most qualified Bidder to correct obvious errors in the bid, to adjust bid amounts as required to correct obvious defects in the original bid and to make other adjustments to the bid or scope of work which is in the best interest of the City.

Section 5

Signing of Bids

5.1 Bids submitted by a corporation must be executed in the corporate name by the president, a vice president, or duly authorized representative. The corporate address and state of incorporation must be shown below the signature.

5.2 Bid proposals by a partnership must be executed in the partnership name and signed by a general partner whose title must appear under the signature and the official address of the partnership must be shown below said signature.

5.3 If Bidder is an individual, its signature shall be inscribed.

5.4 If signature is by an agent or other than an officer of corporation or general partner of partnership, a properly notarized power of attorney must be submitted with the Bid.

5.5 All Bids shall have names typed or printed below all signatures.

5.6 All Bids shall state the Bidder's contractor license number as well as the type of license.

5.7 Failure to follow the provisions of this section shall be grounds for rejecting the Bid as irregular or unauthorized.

5.8 Joint Ventures are generally not allowed to bid.

Section 6

Withdrawal of Proposals

6.1 Any Bid may be withdrawn at any time prior to the hour fixed in the Legal Advertisement for the opening of Bids, provided that the withdrawal is requested in writing, properly executed by the Bidder and received by Owner prior to Bid Opening. The withdrawal of a Bid will not prejudice the right of a Bidder to file a new Bid prior to the time specified for Bid opening.

Section 7

Late Bids

7.1 No Bid shall be accepted if it is submitted and received after the time specified in the Legal Advertisement. The time clock to be used to determine the time of day at any moment and the specified time for the Bid opening shall be that instrument owned or used by the Owner for the designated Project Bid. For the purposes of the designated Project Bid opening, the Owner's time clock shall be assumed to be correct and accurate.

Section 8

Interpretation of Contract Documents

8.1 No interpretation of the meaning of the plans, specifications or other Bidding Documents shall be made to a Bidder orally. Any such oral or other interpretations or clarifications shall be without legal effect. All requests for interpretations or clarifications shall be in writing, addressed to the Purchasing and Risk Manager, to be given consideration. Any and all such interpretations and supplemental instructions shall be in the form of written **addendum** which, if issued, shall be **posted on www.demandstar.com**. Such written addenda shall be binding on Bidder and shall become a part of the Bidding Documents.

8.1 It shall be the responsibility of each Bidder to ascertain, prior to submitting its Bid, that it has received all addenda issued and it shall acknowledge same in its Bid. If a bid or proposal has been submitted prior to the receipt of the final addendum, a revised copy of the Form C-1 Declaration Statement indicating acknowledgement of receipt of that addendum or a request for withdrawal of the proposal can be emailed to the and Risk Manager. That email must be received prior to the date and time of the advertised bid opening.

8.2 Attendance by all bidders at the Pre-Bid Conference, if so scheduled, may be mandatory or non-mandatory. If a bidder has not attended a mandatory Pre-Bid Conference, his bid may be disqualified unless there have been extenuating circumstances for which the Purchasing and Risk Manager has been made aware and the bidder has made arrangements to obtain information presented and discussed in the Pre-bid meeting. If it is the decision of City Staff that the submitted proposal has adequately addressed those issues, they may declare the proposal qualified to participate in the bid process. It is the responsibility of the bidder to make the Purchasing and Risk Manager aware of the circumstances surrounding the missed meeting prior to submittal of the bid.

8.3 The City reserves the right to formally amend and/ or clarify the requirements of the bid specifications where it deems necessary. Any such addendum/ clarification shall be in writing and shall be posted on **www.demandstar.com** .

Section 9

Examination of Site and Contract Documents

9.1 By executing and submitting its Bid, each Bidder certifies that it has:

- a. Examined all Contract Bidding Documents and Contract Documents thoroughly;
- b. Visited the site to become familiar with local conditions that may in any manner affect performance of the Work;
- c. Become familiar with all federal, state and local laws, ordinances, rules, and regulations affecting

performance of the Work; and

d. Correlated all of its observations with the requirements of the Contract Bidding documents.

No plea of ignorance of conditions or difficulties that may exist or conditions or difficulties that may be encountered in the execution of the Work pursuant to these Contract Bidding Documents as a result of failure to make the necessary examinations and investigations shall be accepted as an excuse for any failure or omission on the part of the Successful Bidder, nor shall they be accepted as a basis for any claims whatsoever for extra compensation or for an extension of time.

9.2 The Owner will make copies of surveys and reports, if so performed, in conjunction with this Project available to any Bidder requesting them at cost. However, the Owner does not and shall not warrant or represent to any Bidder either the completeness or accuracy of any such surveys and reports. **Before submitting its Bid, each Bidder shall, at its own expense, make such additional surveys and investigations as may be necessary to determine its Bid price for the performance of the Work within the terms of the Bidding Documents.**

Section 10

Material Requirements

10.1 It is the intention of these Bidding Documents for Bidders to identify standard materials proposed for this Project. When space is provided on the Bid Schedule, Bidders shall specify the materials which they propose to use in the Project. The Owner may declare any Bid non-responsive or irregular if such materials are not specifically named by Bidder.

10.2 To enable the Owner to realize savings of Sales Tax on selected tangible personal property needed for this Project, the Contractor will evaluate the list of material to recommend which items the Owner should directly purchase. The Owner will either accept or reject the recommendations and purchases will be made accordingly.

Section 11. Bid Quantities

11.1 Quantities given in the Bid Schedule, while estimated from the best information available, are approximate only. Payment for unit price items shall be based on the actual number of approved units installed for the Work. Bids shall be compared on the basis of number of units stated in the Bid Schedule as set forth in the Bidding Documents. Said unit prices shall be multiplied by the bid quantities for the total Bid price. Any Bid not conforming to this requirement may be rejected. Special attention by all Bidders is called to this provision, for should conditions make it necessary or prudent to revise the unit quantities, the unit prices will be fixed for such increased or decreased quantities. Compensation for such additive or subtractive changes in the quantities shall be made at the unit prices in the Bid. Subsequent to the issuance of a Notice to Proceed, the Project Manager shall have the discretion to re-negotiate any unit price(s) where the actual quantity varies by more than plus or minus 25% from the estimate at the time of bid.

Section 12

Award of Contract and Protest Procedures

12.1 Bid award selection criteria is as follows:

- a. All questions on the Proposal page shall be answered as to price(s), timing requirements, prompt payment terms (discounts), required document submissions and acknowledgement of addenda received.
- b. Award shall be based upon price submittals and adequate responses to all questions on the Proposal page.
- c. Further consideration will include, but not limited to, references, completeness of bid response, and past performances on other City bids/ projects.
- d. Prices will be read in public exactly as written on the Proposal page at the bid opening; however, should an error in calculations occur whenever unit pricing and price extensions are requested, the unit price shall prevail. Likewise, obvious errors in the unit prices must be resolved and corrected. The bid price is then recalculated and entered as the official bid. No other price adjustments are allowed.

The City reserves the right to:

- a. Evaluate the current capacity of the low bidder to perform the size and scope of work specified in the contract bidding documents.
- b. Use previous performance on similar job(s) for the City as a factor in the selection of the bidder.
- c. To negotiate with the apparent lowest and most qualified bidder to correct obvious defects in the original bid.
- d. To waive defects in the form of bid or to waive formalities and negotiate with the apparent lowest and most qualified bidder to such extent as may be necessary to satisfy the intent and requirements of the City's project.
- e. Reject any and all bids as may be in the best interest of the City.

Award of contract shall be made to the lowest, most responsive, responsible and most qualified Bidder determined on the basis of the entire Bid and the Owner's investigations of the Bidder. When the contract is awarded by Owner, such award shall be evidenced by a Notice of Award, signed by the Purchasing and Risk Manager of Owner and delivered to the intended awardee or mailed to awardee at the business address shown in the Bid.

Any prospective bidder who desires to protest any aspect(s) or provision(s) of the bid invitation shall file his protest with the City Manager in writing prior to the time of the bid opening.

Award of contract shall be made in a manner consistent with the City's Purchasing Policy. Any actual or prospective respondent who desires to formally protest the recommended contract award must file a notice of intent to protest with the City Manager within three (3) calendar days (excluding weekends and City holidays) of the date that the recommended award is posted. Upon filing of said notice, the protesting party will have five (5) days to file a formal protest and will be given instructions as to the form and content requirements of the formal protest.

Section 13

Sales Tax

13.1 The City of Marco Island, Florida as a political subdivision of the State of Florida is exempt from the payment of Florida sales tax to its vendors under Chapter 212, Florida Statutes. All successful bidders will be provided a copy of City of Marco Island's Certificate of Exemption (#85-8012632062C-5) upon contract award. Corporations, Individuals and other entities are impacted by Chapter 212, Florida Statutes according to the type of service, sale of commodity or other contractual arrangement to be made with

the City. By submittal of a properly executed response to a Bid Proposal from the City of Marco Island, Florida the Bidder is acknowledging that it is aware of its statutory responsibilities for sales tax under Chapter 212, Florida Statutes. The City of Marco Island is also exempt from most Federal excise taxes. By submittal of a properly executed response to a Bid Proposal from the City of Marco Island, Florida, the Bidder is acknowledging that it is aware of its responsibilities for Federal excise taxes.

Section 14

Exclusion of City Permits in Bid Prices

14.1 The successful bidder shall be responsible for procuring and paying for all necessary permits not procured or obtained by the City of Marco Island pursuant to the prosecution of the Work. For example, the successful bidder will be required to obtain City permits for electrical hook-ups for field construction offices, material and equipment storage compounds, rock blasting activities, and similar activities attendant to the contractor's operations in performance of the Work.

14.2 **Costs for permits issued by the City will be reimbursed.** The Contractor shall include a line item for City Permits in the first pay request and attach a copy of the permit paid receipt. No additional mark-up of that fee is to be included

Section 15

Offer Extended to Other Governmental Entities

15.1 Offer Extended to Other Governmental Entities: The City of Marco Island encourages and agrees to the successful bidder/proposer extending the pricing, terms and conditions of this solicitation or resultant contract to other governmental entities at the discretion of the successful bidder/proposer.

Section 16

Employment of Unauthorized Alien Workers

16.1 The City of Marco Island will not intentionally award publicly funded contracts to any contractor who knowingly employs unauthorized workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324a(e) (Section 2274A(e) of the Immigration and Nationality Act ("INA")). The City shall consider the employment by any contractor of unauthorized aliens a violation of Section 274A(e) of the INA shall be grounds for unilateral cancellation of this Agreement by the City.

Section 17

Responsible Vendor Determination

17.1 Respondent is hereby notified that Section 287.05701, Florida Statutes, requires that the District may not request documentation of or consider a vendor's social, political, or ideological interests when determining if the vendor is a responsible vendor.

C. BID DOCUMENTS

C1: BID PROPOSAL Annual Street Resurfacing ITB# 2025-027

Full Name of Bidder _____

Main Business Address _____

Place of Business _____

Telephone No. _____ Fax No. _____

Email Address _____

Email is considered to be a valid and accepted manner of communications between the City and the Bidder.

State Contractor's License # _____ Type: _____

To: CITY MANAGER, CITY OF MARCO ISLAND, FLORIDA
(hereinafter called the Owner)

The undersigned as Bidder declares that the only person or parties interested in this Proposal as principals are those named herein; that this Proposal is made without collusion and fraud with any other person, firm or corporation; and that it has carefully examined the location of the proposed work, the proposed forms of Agreement and Bonds, and the Contract Drawings and Specifications. Further, the Bidder acknowledges receipt of Addenda as follows:

Addendum Number	Date Issued	Contractor's Initials
_____	_____	_____
_____	_____	_____
_____	_____	_____

Bidder proposes, and agrees if this Proposal is accepted, to contract with the Owner in the form of the copy of the Agreement included in these Contract Documents, to provide all necessary supervision, project management, maintenance of traffic, machinery, tools, apparatus and other means of construction, including utility and transportation services necessary to do all the Work. Bidder agrees to furnish all the materials and equipment specified or referred to in the Contract Documents in the manner and time herein prescribed and according to the requirements of the Owner as therein set forth; to furnish the Contractor's Bonds and Insurance specified in the Contract Bidding Documents; and to do all other things required of the Contractor by the Contract Documents. Bidder guarantees the foregoing for due compensation and agrees that it will take full payment of the sums set forth in the following Bid Schedule.

ADDITIONAL CONTRACTOR INFORMATION

I. Contact for inquiries regarding this Bid:

Name: _____ Phone No. _____

Email: _____

II. Additional Company Information

Company's Primary Area(s) of Expertise: _____

Type of Company: _____ Sole Proprietorship: _____ Corporation: _____

Partnership Date Formed: _____ Number of Employees: _____

Federal Tax I.D. # _____

Contractor License(s): complete as applicable

Marco Island Building Services Registration # _____

State License # _____ Expiration date _____

Collier County License # _____ Expiration date _____

Has the company operated under any other names in the past five years?

Yes _____ No _____ If yes, give name(s): _____

Does the company have offices, plants or warehouses in any other location? ____ Y ____ N

If yes, list addresses: _____

Bonding Capacity

Single bonding limit \$ _____ Aggregate Limit \$ _____

Bonding Company Name & Address:

Has your company or any of its key people been a party to a bankruptcy or reorganization proceeding?

Yes _____ No _____ If yes, date _____

During the past five years have any subcontractors or suppliers filed any liens against you?

Yes _____ No _____ If yes, give details of any liens over \$5,000. Please provide details in attachment

Have you ever failed to complete a contract, been defaulted, or had a contract terminated?

Yes _____ No _____ If yes, please provide details in attachment.

In the past five years, has your company or any of its key people been involved in any lawsuits arising from construction projects?

Yes _____ No _____. If yes, please provide details in attachment.

In the past five years, has your company or any of its key people been investigated for or found to have committed a violation of any labor laws?

Yes _____ No _____. If yes, please provide details in attachment.

In the past five years, has your company or any of its key people been investigated for or found to have committed a violation of state, federal or local environmental protection laws?

Yes _____ No _____. If yes, please provide details in attachment.

I HEREBY CERTIFY BEING FIRST DULY SWORN THAT THE ABOVE STATEMENTS ARE TRUE AND CORRECT

COMPANY NAME _____

By: _____

Title: _____

Sworn to (or affirmed) and subscribed before me by means of ☐ physical presence or ☐ online notarization, this _____ day of _____, 20_____, by _____ (name of person making statement).

My Commission Expires:

(Signature)

Name: _____
(Legibly Printed)

(AFFIX OFFICIAL SEAL)

Notary Public, State of: _____

Commission No.: _____

C2: BID SCHEDULE SUMMARY

Annual Street Resurfacing

ITB# 2025-027

Item Number	Item Description	Unit	Qty	Unit Price	Total Price
1	Mobilization	LSU	1	\$ -	\$ -
2	Maintenance of Traffic	LSU	1	\$ -	\$ -
3	Prevention, Control and Abatement of Erosion and Water Pollution	LSU	1	\$ -	\$ -
4	Clearing and Grubbing	LSU	1	\$ -	\$ -
5	Sodding	SY	5800	\$ -	\$ -
6	8" HDPE Underdrain	LF	825	\$ -	\$ -
7	12" HDPE Underdrain	LF	2525	\$ -	\$ -
8	Miscellaneous Utility	LSU	1	\$ -	\$ -
SUB-TOTAL					\$ -
OWNER'S CONTINGENCY					\$ 20,000.00
TOTAL					

* Work considered contingency will be requested by the Owner. The contractor must submit a detailed cost proposal for contingency work, and the Owner must approve in writing prior to the Contractor ordering materials or starting any work related to contingency.

* Work considered contingency will be requested by Owner. Contractor must submit detailed cost proposal for contingency work and Owner must approve in writing prior to the Contractor ordering materials or starting any work related to contingency.

Written Amount (GRAND TOTAL BID PRICE): _____

Authorized Signature: _____ Date ____/____/2025

Typed Name and Title: _____

Company Name: _____

C3: MATERIAL MANUFACTURERS**Water Quality Treatment Exfiltration Swales-S. Collier Blvd
ITB# 2025-027**

The Bidder is required to state below, material manufacturers it proposes to utilize on this project. No change will be allowed after submittal of Bid. If substitute material proposed and listed below is not approved by Engineer, Bidder shall furnish the manufacturer named in the specification. Acceptance of this Bid does not constitute acceptance of material proposed on this list. THIS LIST MUST BE COMPLETED OR BID MAY BE DEEMED NON-RESPONSIVE.

Bidder must retain, and, be able to submit, copies of quotes received by material suppliers should the City decides to direct purchase any materials.

<u>MATERIAL</u>	<u>MANUFACTURER</u>	Candidate for Direct Purchase*	
		<u>Yes</u>	<u>No</u>
1. _____	_____	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____
4. _____	_____	_____	_____
5. _____	_____	_____	_____
6. _____	_____	_____	_____
7. _____	_____	_____	_____
8. _____	_____	_____	_____
9. _____	_____	_____	_____
10. _____	_____	_____	_____

Dated ____ / ____ / ____

Bidder _____

BY: _____

Written quotes used to prepare bid must be made available to the City upon request

C4: LIST OF SUBCONTRACTORS
Water Quality Treatment Exfiltration Swales-S. Collier Blvd
ITB# 2025-027

The undersigned states that the following is a full and complete list of the proposed subcontractors on this Project and the class of work to be performed by each, and that such list will not be added to nor altered without written consent of the Project Manager. The undersigned further acknowledges its responsibility for ensuring that the subcontractors listed herein meet all legal requirements applicable to and necessitated by this Agreement, including, but not limited to proper licenses, certifications, registrations and insurance coverage. The City reserves the right to disqualify any bidder who includes non-compliant subcontractors in his bid offer. The bidder shall provide evidence that the subcontractor has agreed to provide the class of work as indicated on this form if so requested by the City. Failure to provide this evidence, if requested, may result in the disqualification of the bid. Further, the City may direct the bidder/contractor to remove/replace any subcontractor that is found to be non-compliant with this requirement subsequent to award of the contract at no additional cost to the City. **THIS LIST MUST BE COMPLETED OR BID MAY BE DEEMED NON-RESPONSIVE.** (Attach additional sheets as needed). Bidder must be prepared to provide documentation demonstrating agreement of the subcontractor to participate in the bid.

Subcontractor and Address

Class of Work to be Performed

1.	<hr/> <hr/>	<hr/>
2.	<hr/> <hr/>	<hr/>
3.	<hr/> <hr/>	<hr/>
4.	<hr/> <hr/>	<hr/>
5.	<hr/> <hr/>	<hr/>

Total % of Work to be performed by subcontractors- _____ %

Dated _____

Bidder

BY: _____

C5: STATEMENT OF EXPERIENCE OF BIDDER
Water Quality Treatment Exfiltration Swales-S. Collier Blvd
ITB# 2025-027

The Bidder is required to state below what work of similar type and magnitude is a judge of its experience, skill and business standing and of its ability to conduct the work as completely and as rapidly as required under the terms of the contract.

Please list at least five projects and only projects that you have completed within the last 5 years or are currently working on. Florida references only.

Project Name			
Description of Work			
Location			
Year 20		Contract Price	\$
Contact Name			
Title & Name of Firm			
Phone No.			
Email:			

Project Name			
Description of Work			
Location			
Year 20		Contract Price	\$
Contact Name			
Title & Name of Firm			
Phone No.			
Email:			

Project Name		
Description of Work		
Location		
Year 20	Contract Price	\$
Contact Name		
Title & Name of Firm		
Phone No.		
Email:		

Project Name		
Description of Work		
Location		
Year 20	Contract Price	\$
Contact Name		
Title & Name of Firm		
Phone No.		
Email:		

Project Name		
Description of Work		
Location		
Year 20	Contract Price	\$
Contact Name		
Title & Name of Firm		
Phone No.		
Email:		

Project Name		
Description of Work		
Location		
Year 20	Contract Price	\$
Contact Name		
Title & Name of Firm		
Phone No.		
Email:		

Project Name		
Description of Work		
Location		
Year 20	Contract Price	\$
Contact Name		
Title & Name of Firm		
Phone No.		
Email:		

Project Name		
Description of Work		
Location		
Year 20	Contract Price	\$
Contact Name		
Title & Name of Firm		
Phone No.		
Email:		

Project Name		
Description of Work		
Location		
Year 20	Contract Price	\$
Contact Name		
Title & Name of Firm		
Phone No.		
Email:		

Project Name		
Description of Work		
Location		
Year 20	Contract Price	\$
Contact Name		
Title & Name of Firm		
Phone No.		
Email:		

Project Name		
Description of Work		
Location		
Year 20	Contract Price	\$
Contact Name		
Title & Name of Firm		
Phone No.		
Email:		

INSERT ADDITIONAL PAGES IF NECESSARY

C6: BID AGREEMENT
Water Quality Treatment Exfiltration Swales-S. Collier Blvd
ITB# 2025-027

Upon receipt of written notice of the conditional acceptance of this Bid, Bidder will execute the formal Contract attached within 10 calendar days and deliver the Surety Bond or Bonds and Insurance as required by the Contract Documents. The attached bid security (5% of Bid) in the sum of: _____dollars (\$_____) shall become the property of the Owner in the event the Contract, Insurance and Bonds are not executed within the time above set forth for the delay and additional expense to the Owner.

If awarded a contract under this Proposal, the undersigned proposes to commence work at the site on the Commencement Date stipulated in the written Notice to Proceed unless the Project Manager, in writing, subsequently notifies the Contractor of a modified (later) Commencement Date. The undersigned further agrees to substantially complete all work covered by this Proposal within **90** consecutive calendar days, and to fully complete all work in its entirety, including final acceptance, within **120** calendar days from and including the Commencement Date. The term "substantially complete" means a level of completion in compliance with the Contract Documents as certified in writing by Owner's Project Manager and recommended by the Engineer such that Owner has beneficial use of the Project and can operate the Project in all respects for its intended purpose. In the event the Work includes more than one Phase, Owner, at its discretion, may set Substantial Completion dates for each Phase and may impose provisions for liquidated damages for each Phase, including Final Completion.

_____, being first duly sworn on oath deposes and says that the Bidder on the above Proposal is organized as indicated and that all statements herein made are made on behalf of such Bidder and that this deponent is authorized to make them.

_____, also deposes and says that it has examined and carefully prepared its Bid Proposal from the Contract Drawings and Specifications and has checked the same in detail before submitting this Bid; that the statements contained herein are true and correct.

(a) Corporation

The Bidder is a corporation organized and existing under the laws of the State of _____, which operates under the legal name of _____, and the full names of its officers are as follows:

President _____
Secretary _____
Treasurer _____
Manager _____

(Corporate Seal)

(b) Co-Partnership

The Bidder is a co-partnership consisting of individual partners whose full names are as follows:

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

The co-partnership does business under the legal name of:

(c) Individual

The Bidder is an individual whose full name is _____, and if operating under a trade name, said trade name is _____.

DATED _____

Legal entity

BY: _____
Name of Bidder (Typed)

Signature

Title

[Corporate Seal]

C7: BID BOND**Water Quality Treatment Exfiltration Swales-S. Collier Blvd****ITB# 2025-027**

KNOW ALL MEN BY THESE PRESENTS, that we _____
(herein after called the Principal), and _____,
(herein called the Surety), a corporation chartered and existing under the laws of the State of _____
with it principal offices in the city of _____ and
authorized to do business in the State of _____ are held and firmly bound unto the **City
of Marco Island** (hereinafter called the Owner) in the full and just sum of _____
dollars (\$_____) good and lawful money of the United States of America, to be paid upon demand
of the Owner, to which payment well and truly to be made, the Principal and the Surety bind themselves,
their heirs, and executors, administrators, and assigns, jointly and severally and firmly by these presents.

Whereas, the Principal is about to submit, or has submitted to the Owner, a proposal for
furnishing all labor, materials, equipment and incidentals necessary to perform:

Water Quality Treatment Exfiltration Swales-S. Collier Blvd

NOW, THEREFORE, The conditions of this obligation are such that if the Proposal be accepted,
the Principal shall, within ten days after the date of a written Notice of Award, execute a Contract in
accordance with the Proposal and upon the terms, conditions and price(s) set forth therein, of the form
and manner required by the Owner, and execute a sufficient and satisfactory Contract Performance
Bond and Payment Bond payable to the Owner, in an amount of 100 Percent of the total Contract price
each in form and with security satisfactory to the said Owner, then this obligation to be void; otherwise
to be and remain in full force and virtue in the law; and the Surety shall, upon failure of the Principal
to comply with any or all of the foregoing requirements within the time specified above, immediately
pay to the aforesaid Owner, upon demand, the amount hereof in good and lawful money of the
United States of America, not as a penalty but as liquidated damages.

IN TESTIMONY Thereof, the Principal and Surety have caused these presents to be duly signed
and sealed this _____ day of _____, 20____.

BY: _____ Principal

(Seal)

Surety

(Seal)

Countersigned _____

Local Resident Producing Agent for _____

C8: NON-COLLUSION CERTIFICATION
Water Quality Treatment Exfiltration Swales-S. Collier Blvd
ITB# 2025-027

The undersigned hereby certifies, to the best of his or her knowledge and belief, that on behalf of the person, firm, association, or corporation submitting the bid certifying that such person, firm, association, or corporation has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise take any action, in restraint of free competitive bidding in connection with the submitted bid. Failure to submit the executed statement as part of the bidding documents may make the bid non-responsive and not eligible for award consideration.

(Contractor/ Architect/Engineer's Signature)

Date _____

Name and title of Authorized Signee

Name of Corporation, Partnership, Trust, Etc.

(SEAL)

C9: PUBLIC ENTITY CRIMES**Water Quality Treatment Exfiltration Swales-S. Collier Blvd
ITB# 2025-027****SWORN STATEMENT UNDER SECTION 287.133 (3)(a), FLORIDA STATUTES,
ON PUBLIC ENTITY CRIMES**

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

1. This sworn statement is submitted with bid proposal **#2025-027** for **Water Quality Treatment Exfiltration Swales-S. Collier Blvd**

2. This sworn statement is submitted by _____
(name of entity submitting sworn statement) whose business address is _____
_____ its Federal Employer Identification Number (FEIN) is _____
_____ (if the entity has no FEIN, include the Social Security Number of the individual signing this sworn statement: _____).

3. My name is _____ and my relationship to the entity named
(please print name of individual signing) above is _____.

4. I understand that a "public entity crime" as defined in Paragraph 287.133(1)(g), **Florida Statutes**, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or of the United States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision or any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.

5. I understand that "convicted" or "conviction" as defined in Paragraph 287.133(1)(b), **Florida Statutes**, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of jury verdict, non-jury trial, or entry of a plea of guilty or nolo contendere.

6. I understand that an "affiliate" as defined in Paragraph 287.133(1)(a), **Florida Statutes**, means:

a. A predecessor or successor of a person convicted of a public entity crime; or

b. An entity under the control any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliated" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has

been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.

c. I understand that a "person" as defined in Paragraph 287.133(1)(e), **Florida Statutes**, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.

d. Based on information and belief the statement that I have marked below is true in relation to the entity submitting this sworn statement. **(indicate which statement applies.)**

_____ Neither the entity submitting this sworn statement, nor any officers, directors, executives, partners, shareholders, employees, members, or agents who are active in management of the entity, nor any affiliate of the entity have been charged with and convicted of a public entity crime subsequent to July 1, 1989.

_____ The entity submitting this sworn statement, or one of the officers, directors, executives, partners, shareholders, employees, members, or agents who are active in management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

_____ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989. However, there has been a subsequent proceeding before a Hearing Officer of the State of Florida, Division of Administrative Hearings and the Final Order entered by the Hearing Officer determined that it was not in the public interest to place the entity submitting the sworn statement on the convicted vendor list. **(attach a copy of the final order)**

I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CONTRACTING OFFICER FOR THE PUBLIC ENTITY IDENTIFIED IN PARAGRAPHS 1-3 (ONE THRU THREE) ABOVE IS FOR THAT PUBLIC ENTITY ONLY AND, THAT HIS FORM IS VALID THOROUGH DECEMBER 31 OF THE CALENDAR YEAR IN WHICH IT IS FILED. I ALSO UNDERSTAND THAT I AM REQUIRED TO INFORM THE PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN SECTION 287.017, FLORIDA STATUTES FOR CATEGORY TWO OF ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.

(Signature)

(Date)

STATE OF _____
COUNTY OF _____

Sworn to (or affirmed) and subscribed before me by means of ☐ physical presence or ☐ online notarization, this ____ day of _____, 20__, by _____ (name of person making statement) who is personally known to me or who has produced _____ (type of identification) as identification.

Affix seal here

Notary Public signature: _____

C10: CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

**Water Quality Treatment Exfiltration Swales-S. Collier Blvd
ITB# 2025-027**

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension (34 CFR, part 85, Section 85.510, Participant's Responsibilities).

"The Bidder certifies that, neither the firm nor any person associated therewith in the capacity of owner, partner, director, officer, principal, investigator, project director, manager, auditor, and/or position involving the administration of federal funds:

(a) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions, as defined in 49 CFR s29.110(a), by any federal department or agency;

(b) has within a three-year period preceding this certification been convicted of or had a civil judgment rendered against it for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a federal, state, or local government transaction or public contract; violation of federal or state antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) is presently indicted for or otherwise criminally or civilly charged by a federal, state, or local governmental entity with commission of any of the offenses enumerated in paragraph (b) of this certification; and

(d) has within a three-year period preceding this certification had one or more federal, state, or local government public transactions terminated for cause or default.

The Bidder certifies that it shall not knowingly enter into any transaction with any subcontractor, material supplier, or vendor who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this project by any federal agency unless authorized by the Florida Department of Transportation."

Date _____

Contractor/ Architect/Engineer's Signature

Name and title of Authorized Signee

Name of Corporation, Partnership, Trust, Etc.

C11: EMPLOYMENT OF UNAUTHORIZED ALIEN WORKERS

Water Quality Treatment Exfiltration Swales-S. Collier Blvd

ITB# 2025-027

The City of Marco Island will not intentionally award publicly funded contracts to any contractor who knowingly employs unauthorized workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324a(e) (Section 2274A(e) of the Immigration and Nationality Act ("INA")). The City shall consider the employment by any contractor of unauthorized aliens a violation of Section 274A(e) of the INA shall be grounds for unilateral cancellation of this Agreement by the City.

Vendor/Contractor shall utilize the U.S. Department of Homeland Security's E-Verify system, in accordance with the terms governing use of the system, to confirm the employment eligibility of:

1. all persons employed by the Vendor/Contractor during the term of the Contract to perform employment duties within Florida; and
2. all persons, including subcontractors, assigned by the Vendor/Contractor to perform work pursuant to the contract with the Agency.

You may also sign-up for free webinars on E-Verify which are offered by the U.S. Department of Homeland Security. To see the schedule of webinars and register, click on the following link, which will take you to the US Department of Homeland Security's website: [E-Verify Webinars](#)

The Website for E-Verify is: <http://www.uscis.gov/e-verify>

(Contractor/ Architect/Engineer's Signature)

Date

Name and title of Authorized Signee

Name of Corporation, Partnership, Trust, Etc.

C12: CONFLICT OF INTEREST DISCLOSURE FORM

Water Quality Treatment Exfiltration Swales-S. Collier Blvd

ITB# 2025-027

The award of this contract is subject to the provisions of Chapter 112, Florida Statutes. All respondents must disclose within their submittal the name of any officer, director, or agent who is also an employee of the City of Marco Island.

The mere appearance of a conflict may be as serious and potentially damaging. Reports of conflicts based on appearances can undermine public trust in ways that may not be adequately restored even when the mitigating facts of a situation are brought to light. Apparent conflicts, therefore, should be disclosed and evaluated with the same vigor as actual conflicts.

(a) A public employee acting as a purchasing agent, or public officer acting in an official capacity, is prohibited from purchasing, renting, or leasing any realty, goods, or services for his or her agency from a business entity in which the officer or employee or his or her spouse or child owns more than a 5% interest. [Sec. 112.313(3), Fla. Stat.]

(b) A public officer or employee, acting in a private capacity, also is prohibited from renting, leasing, or selling any realty, goods, or services to his or her own agency if the officer or employee is a state officer or employee, or, if he or she is an officer or employee of a political subdivision, to that subdivision or any of its agencies. [Sec. 112.313(3), Fla. Stat.]

(c) A public officer or employee is prohibited from holding any employment or contract with any business entity or agency regulated by or doing business with his or her public agency. [Sec. 112.313(7), Fla. Stat.]

(d) A public officer or employee also is prohibited from holding any employment or having a contractual relationship which will pose a frequently recurring conflict between the official's private interests and public duties or which will impede the full and faithful discharge of the official's public duties. [Sec. 112.313(7), Fla. Stat.]

Please check one of the following statements and attach necessary documents if necessary:

☐ **To the best of our knowledge, the undersigned firm has no potential conflict of interest due to any other clients, contracts, or property interest for this project.**

☐ **The undersigned firm, by attachment to this form, submits information which may be a potential conflict of interest due to other clients, contracts, or property interest for this project.**

Company Name	_____
Authorized Signature	_____
Name	_____
Title	_____
Date	_____

C13: FLORIDA TRENCH SAFETY ACT STATEMENT**Water Quality Treatment Exfiltration Swales-S. Collier Blvd****ITB# 2025-027****SWORN STATEMENT UNDER THE FLORIDA TRENCH SAFETY ACT**

THIS FORM MUST BE SIGNED BY THE BIDDER WHO WILL BE RESPONSIBLE FOR THE EXCAVATION WORK ("BIDDER"), OR ITS AUTHORIZED REPRESENTATIVE, IN THE PRESENCE OF A NOTARY PUBLIC AUTHORIZED TO ADMINISTER OATHS.

1. This sworn statement is submitted with bid proposal **#2025-027** for *Water Quality Treatment Exfiltration Swales-S. Collier Blvd*
2. This Sworn Statement is **submitted by** _____
(name of entity submitting sworn statement), **hereinafter "BIDDER". The BIDDER'S business address is:** _____
BIDDER'S Federal Employer Identification Number (FEIN) is _____.
3. My name is _____ (print name of individual signing) and my relationship to the BIDDER is _____
(position or title) of/for the BIDDER. I certify, through my signature at the end of this Sworn Statement, that I am an authorized representative of the BIDDER.
4. The Trench Safety Standards that will be in effect during the construction of this Project are contained within **Trench Safety Act** (refer to the applicable Florida Statute(s) and/or OSHA Regulation(s) and include the "effective date" in the citation(s)). Reference to and compliance with the applicable Florida Statute(s) and/or OSHA Regulation(s) is the complete and sole responsibility of the BIDDER. Such reference will not be checked by OWNER or ENGINEER for accuracy, completeness or any other purpose. The OWNER and ENGINEER shall have no responsibility to review or check the BIDDER's compliance with the trench safety standards.
5. The BIDDER assures the OWNER that it will comply with the applicable Trench Safety Standards and agrees to indemnify, defend and hold harmless the OWNER and ENGINEER, and any of their agents or employees, from any claims arising from the failure of the BIDDER to identify applicable standards or to comply with said standards. As specific consideration for the indemnification above, the OWNER agrees to give the BIDDER twenty-five dollars (\$25.00), which the OWNER agrees is paid on behalf of all parties indemnified hereinabove.
6. The BIDDER has allocated and included in its bid the total amount of \$ _____ based on the linear feet of trench to be excavated over 5 feet deep, for compliance with the applicable Trench Safety Standards and intends to comply with said standards by instituting the following specific method(s) of compliance on this Project: *Water Quality Treatment Exfiltration Swales-S. Collier Blvd*

The determination of the appropriate method(s) of compliance is the complete and sole

responsibility of the BIDDER. Such methods will not be checked by the OWNER or ENGINEER for accuracy, completeness or any other purpose. The OWNER and ENGINEER shall have no responsibility to review or check the BIDDER's compliance with the trench safety standards.

7. The BIDDER has allocated and included in its bid the total amount of \$_____ based on the square feet of shoring to be used for compliance with shoring safety requirements and intends to comply with said shoring requirements by instituting the following specific method(s) of compliance on this Project: *Water Quality Treatment Exfiltration Swales-S. Collier Blvd*

The determination of the appropriate method(s) of compliance is the complete and sole responsibility of the Excavation Contractor. Such methods will not be checked by the OWNER or ENGINEER for accuracy, completeness or any other purpose. The OWNER and ENGINEER shall have no responsibility to review or check the BIDDER's compliance with the trench safety standards.

8. The BIDDER, in submitting this bid, represents that it has obtained and considered all available geotechnical information, has utilized said geotechnical information and that, based on such information and the BIDDER's own information, the BIDDER has sufficient knowledge of the Project's surface and subsurface site conditions and characteristics to assure BIDDER's compliance with the applicable Trench Safety Standards in designing the trench safety system(s) for the Project.

BIDDER:

By: _____
(Signature)

(Position or Title)

(Date)

STATE OF _____
COUNTY OF _____

Sworn to (or affirmed) and subscribed before me by means of ☐ physical presence or ☐ online notarization, this ____ day of _____, 20__, by _____ (name of person making statement) who is personally known to me or who has produced _____ (type of identification) as identification.

Affix seal here

Notary Public signature: _____

FLORIDA TRENCH SAFETY ACT ACKNOWLEDGMENT

If this Project involves trench excavations that will exceed a depth of 5 feet, pursuant to Florida Statutes. Chapter 553, Part VI, Trench Safety Act will be in effect and the undersigned Bidder hereby certifies that such Act will be complied with during the construction of this Project.

Bidder acknowledges that included in the various items of the bid and in the total bid price are costs for complying with the Florida Trench Safety Act. Bidder further identifies the cost to be as summarized below:

	Trench Safety	Units of	Quantity	Unit	Extended
	(Description)	(LF SY)		Cost	Cost

TOTAL: _____

C14: SAFETY CERTIFICATION**Water Quality Treatment Exfiltration Swales-S. Collier Blvd
ITB# 2025-027****CONTRACTOR SAFETY CERTIFICATION**

As safety is top priority at the City of Marco Island. A Contractor Safety Program has been developed and implemented. This program applies to anyone working on facility property, or on the premises in connection with such work. Compliance by each contractor is required. The following information is provided to assist the contractor in training its employees to work in accordance with City of Marco Island Health & Safety Standards. Each contractor is expected to make all of its employees aware of the following material and to assure compliance therewith:

Hazard Communication Program	Chemical Safety
Confined Space Entry Procedures	Electrical Safety
Lock out/Tag out Procedures	Health & Safety Rules
Excavation Safety Procedures	Trenching and Shoring Procedures
Personal Protective Equipment	Housekeeping Procedures

Guidelines have been established for progressive discipline for safety violations. In the event of an unsafe act, City of Marco Island will initiate the steps listed below:

1st Violation – Verbal warning to contractor’s authorized representative on site

2nd Violation – Meeting with contractor’s company manager

3rd Violation – Written notice to contractor

4th Violation – Termination of Contract

The contractor will also be subjected to random inspections by a City of Marco Island representative to confirm that all workers are aware of their safety and our policy. City of Marco Island does not guarantee that any inspections will occur, and the Contractor remains solely responsible for assuring awareness and compliance by the Contractor’s employees. The Contractor agrees to arrange for supervision of its employees and agents to assure compliance with all applicable Federal, State and City of Marco Island safety requirements.

Please sign and return this document signifying that you have received it and agree to follow all applicable Federal, State, and City of Marco Island safety requirements.

Contractor/Company Name: _____
(Please Print)

Contractor/Company Representative Name: _____
(Please Print)

Contractor/Company Representative Title: _____
(Please Print)

Signature: _____ Date: ____/____/20____

C15: ASBESTOS WORK PLAN**Water Quality Treatment Exfiltration Swales-S. Collier Blvd****ITB# 2025-027****REPAIR, REMOVAL AND MAINTENANCE OF ASBESTOS-CONTAINING CEMENTITIOUS PIPES****(April 20, 2010)****ASBESTOS WORK PLAN**

The following work plan is for the repair, removal and maintenance of asbestos cement pipe (AC). This work plan should be considered as minimal guidelines for the disturbance of the material. The Contractor shall utilize all appropriate controls and work practices necessary to protect workers, people in the vicinity of the work area, and the environment, regardless of the inclusion or exclusion of this work plan. Contractor questions should be resolved prior to the start of the abatement project. The primary concerns and considerations of these work practices is the protection of human health and the environment, as well as to minimize the Owner's and Contractor's liability exposure before, during and after the abatement process.

GENERAL

The City of Marco Island, shall employ the Contractor, for the purpose of repair, removal and maintenance of AC pipe.

INDEMNITY The Contractor shall indemnify, defend and save the Owner harmless from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the of the Contractor and persons employed or utilized by the Contractor in the performance of the work associated with the project. The Contractor shall defend on behalf of the Owner, severally, or Owner and Contractor jointly, any claim or action for or arising out of the foregoing. The monetary limitation on the extent of indemnification pursuant to this paragraph shall be \$ 1 million per occurrence.

The Contractor shall indemnify, defend and save the Owner harmless against all damages, losses, and claims resulting from the activities, or lack of activities associated with the project. The Contractor shall defend on behalf of the Owner, severally, or Owner and Contractor jointly, any claim or action for or arising out of the foregoing.

REGULATIONS, CODES AND STANDARDS

The Contractor shall comply with all regulations, codes and standards. These shall include, but are not limited to:

- 1 Title 29, Code of Federal Regulations, Section 1910.134 and 1926.1101. Occupational Safety and Health Administration (OSHA), US Department of Labor.
- 2 Title 40, Code of Federal Regulations, Part 61, Subparts A and M, National Emission Standards for Hazardous Air Pollutants. US Environmental Protection Agency (EPA).
- 3 State of Florida's Administrative Code 62-204.800. US EPA National Emission Standards for Hazardous Air Pollutants (NESHAPS) Asbestos Regulations (40 CFR 61, Subpart M).
- 4 State of Florida, Chapter 62-257, Florida Administrative Code.
- 5 Florida Statutes, Chapter 469, Licensing Requirements (Exemptions 469.002)
- 6 State of Florida, City of Marco Island codes and ordinances as applicable.

CONTRACTOR STAFFING

1. All work will be supervised by a qualified individual meeting the requirements of a Competent Person* and possessing the following minimum qualifications and training:

- a) Satisfactory completion of an Asbestos Abatement Project Supervisor course
 - Medical examination for respirator use
 - Fit test for respirator type

b) Training in the maintenance, repair and removal of AC pipe

*A Competent Person, is capable of identifying existing asbestos hazards at the work place, determine if a Negative Exposure Assessment (NEA) exists, is qualified to train other workers, and has the authority to take prompt corrective measures to eliminate a hazardous exposure. In addition the competent person must be trained in a training course which meets the criteria of EPA's Model Accreditation Plan (40 CFR 763) for supervisor.

2. Any direct contact with AC pipe will be performed by qualified workers possessing the following minimum qualifications and training:

a) Satisfactory completion of an OSHA Class II Worker course **

- Medical examination for respirator use
- Fit test for respirator type

b) Training in the maintenance, repair and removal of AC pipe

**Class II Training Requirements must be met for work involving building materials including roofing, flooring, siding materials, ceiling tiles or transite panels training shall include at a minimum the elements in paragraph 29 CFR 1926.1101 (k) (9)(iv)(A) and specific work practices and engineering controls set forth in paragraph (g). It shall include hands-on training and it is to be at least 8 hours in length.

Annual refresher course work is required. The length of time for the refresher training is not specified.

3. Personal Protective Equipment (PPE) for each worker will include hard hat, steel toed shoes, disposable protective clothing, respiratory protection and high visibility reflective vests. Respirators shall be fitted with a P-100 filtering cassette. (The use of disposable protective clothing, and respiratory protection will be determined by the establishment of a Negative Exposure Assessment and continual personnel air monitoring).

WORK PROCEDURES

controlling Government Regulation:

OSHA's Construction Industry Standard for Occupational Exposure to Asbestos Subpart Z, 29 CFR 1926.1101 Asbestos.

Work-Task Assumptions/Requirements of the Employer at Project Work-Site:

Prior to commencing the demolition and removal of the A-C pipe, the contractor has:

- (1) Determined by thorough inspection the existence and the extent of any ACM.
 - (2) Given written notice to appropriate governmental agency at the beginning of abatement activity.
 - (3) Conducted an Initial Exposure Assessment (IEA) test plan or baseline report, which complies with the criteria in Paragraph (f)(2)(iii) of the above referenced controlling government regulations (section), and which demonstrates that the employees' exposure to airborne asbestos fibers during removal of the Asbestos-Cement (A-C) pipe is expected to be consistently below the Permissible Exposure Levels (PELs) i.e... exposure must be less than 0.1 fiber/cubic centimeter (cc) of air for an eight (8) hour time-weighted average limit (TWA), and less than 1.0 fiber/cc of air as averaged over a sampling period of thirty (30) minutes, all as determined by the method prescribed in Appendix A to the referenced section, or by an equivalent method, and therefore, the employer intends to do the A- C pipe removal through the use of Negative Exposure Assessments (NEAs).
- Procedures for Removal of Asbestos-Cements (A-C) Pipe, Also Commonly Referred to as Transite Pipe. This work activity is identified as a Class II asbestos removal activity by OSHA's Subpart Z, 29 CFR 1926.1101, with the A-C pipe removal is being done utilizing a valid Negative Exposure Assessment (NEA).

Preparation

Establish a regulated work area (RWA) using barricade tape.

- Provide a hand/face wash station at the entry point to the RWA.
- Post asbestos-warning signs at the RWA entry point.
- Establish a waste load-out area attached to the RWA.

- Once an RWA is established and work begins, no access should be permitted
- without the required personal protective equipment.
- Prior to commencing work a ten day NESHAP notification (DEP Form 62-257 .900(1) Effective 10-12-08) must be submitted the Florida Department of Environmental Protection (FDEP) office located at the following address:

FDEPAir Resource Management
2295 Victoria Avenue, Ste 364
P.O. Box 2549
Fort Myers, Florida 33902-2549

The form can be accessed online at:

[http://www.dep.state.fl.us/air/rules/forms/asbestos/dep62_257_900\(1\).pdf](http://www.dep.state.fl.us/air/rules/forms/asbestos/dep62_257_900(1).pdf) Air Monitoring and Sampling of Exposure to Airborne Asbestos Fibers:

< As the work begins the competent person (or third party consultant) must conduct and record objective data to confirm the Initial Exposure Assessment (IEA), and that the specific job-site work activity confirms the findings of the IEA, and that the PELs are not being exceeded for this work activity.

Excavation:

- < Machine excavate to expose A-C pipe.
- < Hand excavate areas under pipe where cuts/breaks are planned.
- < Excavation operations should be carefully executed so that pipe damage does not occur prior to removal.

Abandonment of AC Pipes

- < AC pipes can be abandoned in-place. The procedure for abandonment of pipes in place includes filling the section of pipe with a grout/cement slurry. The location of the pipes should be recorded on the master drawing of the right-of -way.
- < At no time will bursting, crushing, grinding or pulverizing of the AC pipe be conducted.

AC Pipe Removal:

All pipe cutting or breaking operations require adequate wetting with potable water to prevent A-C materials from being crumbled by hand pressure and to keep the asbestos fibers from becoming air- borne (friable).

- < Plan pipe cuts/breaks as necessary to accommodate the size/weight of pipe being removed.
- < Use a hammer or wheel-type pipe cutter (or equivalent tool) to make the initial cut and drain the pipe of residual liquids. If gas powered cutters are to be used, they should be connected to a HEPA filtered vacuum and used in a manner that will not create elevated airborne fibers. If a gas-powered cutter is utilized that is not connected to a HEPA filtration system, the work area should be contained to prevent the release of airborne fibers. In addition, a sufficient supply of water shall be applied to the cut point to further prohibit the release of asbestos fibers. A layer of 6 mil polyethylene should be placed beneath the cut point to contain the debris that will be generated. The debris shall be collected and treated as asbestos- containing waste.
- < Remove pipe sections at joint collars by breaking them with a sledgehammer or cutting them with a wheel-type pipe cutter (soil-pipe cutter).
- < Where pipe re-connection is required, trim pipe ends in a manner that will not cause asbestos fibers to become airborne. Any debris that is generated shall be collected and treated as asbestos- containing waste.
- < When applicable, remove pipe sections from trench in an "intact" condition. Wet and containerize waste materials as you go. Using lifting straps and methods that do not damage the pipe remove the material from the trench.

< WASTE PIPES: The pipe should be placed in a leak tight waste container. An alternative option would be to wrap each section of pipe with two layers of 6 mil polyethylene. For both options water should be applied to each section of pipe before it is contained.

< Identify A-C materials and stockpile the waste in a designated load-out area with the following label warnings: (The label must also identify the generator of the AC Pipe waste).

DANGER Contains Asbestos Fibers
Avoid Creating Dust
Cancer and Lung Disease Hazard

Transportation of Asbestos Waste

All asbestos-containing waste shall be transported to a class I landfill in leak tight containers. Each shipment must be properly marked with the following notation:

DANGER Contains Asbestos Fibers Avoid Creating Dust Cancer and Lung Disease Hazard

< All asbestos-containing waste shall be disposed of in a timely manner at a class I landfill. All waste must be disposed of within a 30 day period from the time of removal. A waste shipment record must be provided for each shipment.

References: Underground Contractors Association of Illinois Best Practices for Removing Asbestos Cement Pipe April 14, 2003

Acknowledgement of Requirements:

Signed: _____

Firm: _____

Date: ____/____/____

C16: CONTRACTOR & BUSINESS LICENSES

**Water Quality Treatment Exfiltration Swales-S. Collier Blvd
ITB# 2025-027**

**Attach copy of your contractor's and/or other business
licenses at this location**

C17: AFFIDAVIT ATTESTING TO NONCOERCIVE CONDUCT FOR LABOR OR SERVICES

Effective July 1, 2024, Section 787.06, Florida Statutes, a nongovernmental entity executing, renewing, or extending a contract with the City is required to provide an affidavit, signed by an officer or a representative of the nongovernmental entity under penalty of perjury, attesting that the nongovernmental entity does not use coercion for labor or services as defined in Section 787.06(2)(a), Florida Statutes.

By signing below, **I hereby affirm under penalty of perjury that:**

1. I have read Section 787.06, Florida Statutes, and understand that this affidavit is provided in compliance with the requirement that, upon execution, renewal, or extension of a contract between a nongovernmental entity and the City, the nongovernmental entity must attest to the absence of coercion in labor or services.
2. I am an officer or representative of _____, a nongovernmental entity.
3. _____ does not use coercion for labor or services as defined in the relevant section of the law.

In the presence of:

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

Witness #1 Print Name: _____

Print Name: _____

Witness #2 Print Name: _____

Title: _____

Entity Name: _____

OATH OR AFFIRMATION

State of Florida

County of _____

Sworn to (or affirmed) and subscribed before me by means of ☐ physical presence or ☐ online notarization, this ____ day of _____, 20____, by _____
(name of person) as _____ (type of authority) for
_____ (name of party on behalf of whom instrument is executed).

Notary Public (Print, Stamp, or Type as Commissioned)

Personally known to me; or

Produced identification (Type of Identification: _____)

Did take an oath; or

Did not take an oath

C18: AFFIDAVIT REGARDING PROHIBITION ON CONTRACTING WITH ENTITIES OF FOREIGN COUNTRIES OF CONCERN

Pursuant to Section 287.138, Florida Statutes (which is expressly incorporated herein by reference), the City may not knowingly enter into a contract with an entity which would give access to an individual's personal identifying information if (a) the entity is owned by the government of a foreign country of concern; (b) the government of a foreign country of concern has a controlling interest in the entity; or (c) the entity is organized under the laws of or has its principal place of business in a foreign country of concern.

This affidavit must be completed by an officer or representative of an entity submitting a bid, proposal, or reply to, or entering into, renewing, or extending, a contract with the City which would grant the entity access to an individual's personal identifying information.

1. _____ ("entity") does not meet any of the criteria in paragraphs (2)(a)-(c) of Section 287.138, F.S.

In the presence of:

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

Witness #1 Print Name: _____

Print Name: _____

Title: _____

Witness #2 Print Name: _____

Entity Name: _____

OATH OR AFFIRMATION

State of Florida

County of _____

Sworn to (or affirmed) and subscribed before me by means of ☐ physical presence or ☐ online notarization, this ____ day of _____, 20____, by _____
(name of person) as _____ (type of authority) for
_____ (name of party on behalf of whom instrument is executed).

Notary Public (Print, Stamp, or Type as Commissioned)

Personally known to me; or

Produced identification (Type of Identification: _____)

Did take an oath; or

Did not take an oath

C19: BIDDERS CHECKLIST**Water Quality Treatment Exfiltration Swales-S. Collier Blvd
ITB# 2025-027**

The spaces are for your use to help you ensure you have completed or included all required forms. The signature at the bottom of this form is **REQUIRED** and indicates that you have been informed as to what forms must be included in your bid submittal. Failure to complete any one of these forms may result in your bid being disqualified.

NO.	FORM NAME	INSERTED
C1	BID PROPOSAL	
C2	BID SCHEDULE SUMMARY	
C3	MATERIAL MANUFACTURERS	
C4	LIST OF SUBCONTRACTORS	
C5	STATEMENT OF EXPERIENCE OF BIDDER	
C6	BID AGREEMENT	
C7	BID BOND	
C8	NON-COLLUSION CERTIFICATION	
C9	PUBLIC ENTITY CRIMES	
C10	CERTIFICATION REGARDING DEBARMENT, SUSPENSION,	
C11	EMPLOYMENT OF UNAUTHORIZED ALIEN WORKERS	
C12	CONFLICT OF INTEREST DISCLOSURE FORM	
C13	FLORIDA TRENCH SAFETY ACT	
C14	SAFETY CERTIFICATION	
C15	ASBESTOS WORK PLAN	
C16	CONTRACTOR & BUSINESS LICENSES	
C17	NONCOERCIVE CONDUCT AFFIDAVIT	
C18	PROHIBITION ON CONTRACTING WITH ENTITIES	
C19	BIDDER'S CHECKLIST	

ACTION	COMPLETED
The Bid has been signed	
Bid prices offered have been thoroughly reviewed and checked	
Price extensions and totals have been checked	
Any required drawings, descriptive literature, etc. have been included	
Bid bond or cashier's check has been included if required	
www.demandstar.com has been accessed and any addenda that has been issued has been downloaded and is being acknowledged on Form C1: Bid Proposal	

Bids must be uploaded to Demandstar by 2pm on the Bid Opening date outlined in the Milestone Dates. The City is not responsible for late submissions due to technical issues.

NO MAILED IN BIDS WILL BE ACCEPTED

Bidder Name (Printed)

Signature, Title and Date

D. CONSTRUCTION AGREEMENT

EXAMPLE ONLY-DO NOT COMPLETE

THE CITY OF MARCO ISLAND, FLORIDA, (hereinafter defined as "Owner" or "City") hereby contracts with ***awardee***, ("Contractor") to perform all work ("Work") in connection with **Water Quality Treatment Exfiltration Swales-S. Collier Blvd** as said Work is set forth in the requirements and specifications in the Contract Bidding Documents and other Contract Documents hereafter defined.

Owner and Contractor, for the consideration herein set forth, agree as follows:

Section 1. Contract Documents.

The Contract Documents consist of this Agreement, the Exhibits described in Section 8 hereof, the Legal Advertisement, the Instructions to Bidders, the Bid Schedule and any duly executed and issued addenda, Change Orders, Work Directive Changes, Field Orders and amendments relating thereto. All capitalized terms unless otherwise specifically set forth herein, shall have that definition as described in the General Terms and Conditions, attached hereto as Exhibit I. All of the foregoing Contract Documents are incorporated by reference and made a part of this Agreement (all of said documents including the Agreement sometimes being referred to herein as the "Contract Documents" and sometimes as the "Agreement"). A copy of the Contract Documents shall be maintained by Contractor at the Project Site (as defined in Section 1.4 of Exhibit I General Terms & Conditions hereof) at all times during the performance of the Work.

Owner shall furnish to Contractor up to six (6) sets of the Contract Documents as are reasonably necessary for execution of the Work. Additional copies of the Contract Documents shall be furnished, upon request, at the cost of reproduction.

Section 2. Scope of Work.

Contractor agrees to furnish and pay for all management, maintenance of traffic, supervision, financing, labor, materials, tools, fuel, supplies, utilities, equipment and services of every kind and type necessary to diligently, timely, and fully perform and complete in a good and workmanlike manner the Work required by the Contract Documents.

Section 3. Contract Amount.

In consideration of the faithful performance by Contractor of the covenants in this Agreement to the full satisfaction and acceptance of Owner, Owner agrees to pay, or cause to be paid, to Contractor the following amount (herein "Contract Amount"), in accordance with the terms of this Agreement less any amount for direct purchased material including the sales tax that would have been paid by Contractor as per the direct material purchase process set forth in this section 3.

\$ _____

Amount in words: _____

A. Assistance to Owner for Direct Purchases. To enable Owner to realize savings of Sales Tax (as defined in Exhibit I hereof) on selected tangible personal property needed for this Project, Contractor will provide to Owner a list of all tangible personal property to be used in the Work, for selection as direct purchases. Contractor will evaluate the list to recommend which items Owner should directly purchase. Owner will either accept or reject Contractor's recommendations and purchases will be made accordingly.

B. Direct Material Purchase Procedure. Owner and Contractor will utilize and incorporate language into

Trade Contracts (as defined in Section 1.4 of Exhibit I General Terms & Conditions hereof) to implement the following:

- 1 Owner will provide Purchase Requisition Forms (as defined in Section 1.4 of Exhibit I General Terms & Conditions hereof) to Contractor.
- 2 Contractor will provide detailed scoping and pricing for the Purchase Order Requisitions (as defined in Section 1.4 of Exhibit I General Terms & Conditions hereof) in harmony with the Trade Contractors.
- 3 Purchase Order Requisitions will be routed to Owner's Purchasing Department (as defined in Section 1.5 of Exhibit I General Terms & Conditions hereof) for processing, with a copy to the Project Manager (as defined in Section 1.4 of Exhibit I General Terms & Conditions hereof).
- 4 Contractor will issue a deductive contract adjustment which will account for the value of the material and the Sales Tax as it pertains to Contractor's contract.
- 5 As the material is delivered to the Project Site, Contractor will approve the vendor's invoice for materials delivered. After Contractor accepts responsibility for this material, it will forward the invoice and receipt form to Owner's Project Manager who will review, approve, and forward the invoice to Accounts Payable (as defined in Section 1.4 of Exhibit I General Terms & Conditions hereof) for processing.
- 6 Owner will issue a check for the approved invoice amount and mail this check directly to the vendor. A copy of the check will be forwarded to Contractor to enable it to accurately track and summarize all Owner direct purchase payments.

C. Indemnification. Subject to the provisions and monetary limitations of Section 768.28 (5), Florida Statutes, which limitations shall be applicable regardless of whether such provisions would otherwise apply, and to the extent permitted by law, Owner does hereby defend, hold harmless and indemnify Contractor from any and all liability for unpaid sales taxes which Contractor may suffer as a result of claims, demands, costs, interest, penalties or judgments against Contractor made by or in favor of the State of Florida on account of failure to pay Florida State Sales Taxes on materials purchased by Owner under this direct purchase procedure. Subject to the provisions and monetary limitations of Section 768.28 (5), Florida Statutes, which limitations shall be applicable regardless of whether such provisions would otherwise apply, and to the extent permitted by law, Owner agrees to defend against any such claims or actions brought against Contractor whether rightfully or wrongfully brought or filed. Contractor agrees that it will promptly notify Owner of any such claim, demand, or action. Furthermore, Contractor expressly agrees that, if and when requested by Owner, it will enter into such amendments to this Agreement as Owner, upon consultation with its legal counsel, may deem necessary or useful to preserve or ensure its right under Florida law to the sales tax exemption contemplated by this subsection.

D. Long Lead Time Procurement. Prior to or immediately after Owner's and Contractor's agreement upon the GMP (as defined in Section 1.4 of Exhibit I General Terms & Conditions hereof) for the Work, early procurement items shall be identified by Contractor. Contractor shall provide for the procurement of such items having clearly established the value of such in his estimate submitted with the GMP proposal. When such items are to be fabricated and partially or totally paid for (whether by Owner or Contractor) prior to delivery of such items at the Project Site, Contractor shall verify the status of fabrication and require the supplier or manufacturer to provide a UCC Form #1 to establish and protect Owner's rights and privileges with regard to the item that has been purchased.

E. Owner Furnished Items. Owner may purchase certain items outside the scope of supply of this Agreement. The items generally are large items designed by an independent engineering firm or the engineering component of Contractor and an appropriate level of compensation was already paid by Owner for the engineering services. Contractor shall be paid an appropriate construction cost for the incorporation of said items into the overall project Contractor shall receive no fee, as described in Section 1.4 of Exhibit I General Terms & Conditions for these items.

Section 4. Bonds.

Contractor shall provide Performance and Payment Bonds, in the form prescribed in Exhibit A, in the amount of 100% of the Contract Amount, the costs of which to be paid by Contractor. The Performance and Payment Bonds shall be underwritten by a surety authorized to do business in the State of Florida and otherwise acceptable to Owner; provided, however, the surety shall be rated as "A-" or better as to general policy holders

rating and Class V or higher rating as to financial size category and the amount required shall not exceed 5% of the reported policy holders' surplus, all as reported in the most current Best Key Rating Guide, published by A.M. Best Company, Inc. of 75 Fulton Street, New York, New York 10038. Should the contract amount be less than \$500,000, the requirements of Section 287.0935, F.S. shall govern the rating and classification of the surety.

If the surety for any bond furnished by Contractor is declared bankrupt, becomes insolvent, its right to do business is terminated in the State of Florida, or it ceases to meet the requirements imposed by the Contract Documents, Contractor shall, within five (5) calendar days thereafter, substitute another bond and surety, both of which shall be subject to Owner's approval.

Section 5. Contract Time and Liquidated Damages

Time is of the essence in the performance of the Work under this Agreement. The "Commencement Date" shall be established in the Notice to Proceed to be issued by the Project Manager. Contractor shall commence the Work within five (5) calendar days from the Commencement Date. No Work shall be performed at the Project Site prior to the Commencement Date. Any Work performed by Contractor prior to the Commencement Date shall be at the sole risk of Contractor. The date for Substantial Completion (as hereinafter defined) of the Work shall be within **90** calendar days from the Commencement Date.

Owner and Contractor recognize that, since time is of the essence for this Agreement, Owner will suffer financial loss if the Work is not substantially completed within the time specified above, as said time may be adjusted as provided for herein. Should Contractor fail to achieve Substantial Completion of the Work within the time period noted above, Owner shall be entitled to assess, as liquidated damages, but not as a penalty, an amount as determined by the below table for each calendar day thereafter until Substantial Completion is achieved. Contractor hereby expressly waives and relinquishes any right which it may have to seek to characterize the above noted liquidated damages as a penalty, which the parties agree represents a fair and reasonable estimate of Owner's actual damages at the time of contracting if Contractor fails to substantially complete the Work in a timely manner. Notwithstanding anything to the contrary contained herein, "Substantial Completion" shall be defined as a level of completion in compliance with the Contract Documents as certified in writing by Owner's Project Manager and recommended by the Engineer such that Owner has beneficial use of the Project and can operate the Project in all respects for its intended purpose. In the event the Work includes more than one Phase, Owner, at its discretion, may set Substantial Completion dates for each Phase and may impose provisions for liquidated damages for each Phase, including Final Completion. Contractor shall have **30** calendar days after the date of Substantial Completion (the "Final Completion Date") within which to complete all remaining Work required by the Contract Documents (the completion of all such Work, including any Work unfinished at the date of Substantial Completion, and the fulfillment of all requirements of the Contract Documents for Final Completion). Prior to Contractor requesting the Engineer and Owner to perform the Substantial Completion review, Contractor shall inspect the Project and prepare a list of all deficient and unfinished work. The list shall be submitted to Owner for review. At Substantial Completion, a Final Punch List will be prepared and provided to Contractor. The Final Punch List will contain a listing of all known remaining incomplete items of the Work, but is not to be considered by Contractor as a waiver by Owner of Contractor's obligation to complete all the Work in complete compliance with Contract Documents. If the Project is behind schedule, Owner may direct Contractor to expedite the Work at no additional cost to Owner by whatever means Contractor may use, including, without limitation, increasing manpower or working overtime to bring the Work back within the currently submitted and approved Progress Schedule.

LIQUIDATED DAMAGES

Applicable liquidated damages are the amounts established in the following schedule:

CONTRACT AMOUNT			DAILY CHARGE PER CALENDAR DAY
\$299,999 and under			\$980
\$300,000	But less than	\$ 2,000,000	\$1,699
\$2,000,000	But less than	\$5,000,000	\$2,650
\$5,000,000	But less than	\$10,000,000	\$3,819
\$10,000,000	But less than	\$20,000,000	\$4,687

\$20,000,000	But less than	\$40,000,000	\$7,625
\$40,000,000	And over		\$10,467 plus 0.00005 of any amount over \$40 million (Rounded to nearest whole dollar)

Section 6. Audits and Public Records.

A. Audits. Contractor shall maintain adequate records to justify all charges, expenses and costs incurred in performing the Work outlined in this Agreement for at least four (4) years after the completion of Work pursuant to this Agreement. Owner reserves the right to audit the records of the Contractor related to the Work performed at any time during the execution of the Work and for a period of four (4) years after final payment for such Work is made.

B. Public Records. Contractor acknowledges that the public shall have access, at all reasonable times, to certain documents and information pertaining to Marco Island contracts, pursuant to the provisions of Chapter 119, Florida Statutes. Contractor agrees to maintain public records in its possession or control in connection with its performance under this Agreement and to provide the public with access to public records in accordance with the record maintenance, production and cost requirements set forth in Chapter 119, Florida Statutes, or as otherwise required by law. Contractor shall ensure that public records that are exempt or confidential from public records disclosure requirements are not disclosed except as authorized by law.

Unless otherwise provided by law, any and all reports, surveys, and other data and documents provided or created in connection with this Agreement are and shall remain the property of the Owner. In the event of termination of this Agreement by either party, any reports, photographs, surveys and other data and documents and public records prepared by, or in the possession or control of, Contractor, whether finished or unfinished, shall become the property of the Owner and shall be delivered by Contractor to the Owner's City Manager, at no cost to the Owner, within seven (7) days of termination of this Agreement. All such records stored electronically by Contractor shall be delivered to the Owner in a format that is compatible with the Owner's information technology systems. Upon termination of this Agreement, Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure. Any compensation due to Contractor shall be withheld until all documents are received as provided herein. Contractor's failure or refusal to comply with the provisions of this Section may result in the immediate termination of this Agreement by the Owner.

Section 119.0701(2)(a), Florida Statutes

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

Custodian of Public Records: JOAN TAYLOR, CITY CLERK
Mailing address: 50 Bald Eagle Drive, Marco Island, FL 34145
Telephone number: 239-389-5010
Email: publicrecords@cityofmarcoisland.com

Section 7. Anti-Lobbying.

Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Contractor to solicit or secure this Agreement and that it has not paid or agreed to pay any

company or person other than a bona fide employee working solely for Contractor any fee, commission, percentage fee, gifts or any other considerations contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the Owner shall have the right to cancel this Agreement without liability.

Section 8. Exhibits Incorporated.

The documents identified in the Table of Contents of these contract Bidding Documents are expressly agreed to be incorporated by reference and made a part of this Agreement.

Section 9. Modification.

No modification or change to the Agreement shall be valid or binding upon the parties unless in writing and executed by the party or parties intended to be bound by it.

Section 10. Successors and Assigns.

This Agreement shall be binding upon the Parties and their respective successors, heirs and assigns. The Parties agree that nothing contained herein shall authorize the assignment of this Agreement or the delegation of any duties hereunder by either Party, unless previously set out in this Agreement, without the prior written consent of the other party.

Section 11. Governing Law, Jurisdiction and Venue.

The Agreement shall be interpreted under and its performance governed by the laws of the State of Florida. The parties submit to the jurisdiction of any Florida state or federal court in any action or proceeding arising out of, or relating to, this Agreement. Venue for any action to enforce this Agreement shall be in Collier County, Florida.

Section 12. Waiver.

No delay or omission by either Party hereto, in the exercise of any right or remedy hereunder, shall impair such right or remedy or be construed to be a waiver thereof. Any waiver of any such right or remedy by any Party must be in writing and signed by the Party against which such waiver is sought. A waiver by either of the Parties hereto of any of the covenants to be performed by the other or any breach thereof shall not be construed to be a waiver of any succeeding breach thereof or any other covenant herein contained. All remedies provided for in this Agreement shall be cumulative and in addition to and not in lieu of any other remedies available to either Party at law, in equity or otherwise.

Section 13. Entire Agreement.

Each of the parties hereto agrees and represents that the Agreement comprises the full and entire agreement between the parties affecting the Work contemplated, and no other agreement or understanding of any nature concerning the same has been entered into or will be recognized, and that all negotiations, acts, work performed, or payments made prior to the execution hereof shall be deemed merged in, integrated and superseded by the Agreement.

Section 14. Severability.

Should any provision of the Agreement be determined by a court to be unenforceable, such a determination shall not affect the validity or enforceability of any other section or part thereof.

Section 15. Change Order Authorization.

The City Manager shall have the authority on behalf of Owner to execute all change orders to the Agreement to the extent provided for under the Owner's Purchasing Policy and accompanying administrative procedures.

Section 16. Construction.

Any doubtful or ambiguous language contained in this Agreement shall not be construed against the party who physically prepared this Agreement. The rule sometimes referred to as "fortius contra proferentum" (pursuant to which ambiguities in a contractual term which appears on its face to have been inserted for the benefit of one of the parties shall be construed against the benefited party) shall not be applied to the construction of this Agreement.

Section 17. Order of Precedence

In the event of any conflict between or among the terms of any of the Contract Documents, the terms of the Construction Agreement and the General Terms and Conditions shall take precedence over the terms of all other Contract Documents. To the extent any conflict in the terms of the Contract Documents cannot be resolved by application of the Construction Agreement and the General Terms and Conditions, the conflict shall be resolved by imposing the more strict obligation under the Contract Documents upon Contractor.

Section 18. Scrutinized Companies

Contractor certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, F.S., the City may immediately terminate this Agreement at its sole option if the Contractor or its subcontractors are found to have submitted a false certification; or if the Contractor, or its subcontractors are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement.

If this Agreement is for more than one million dollars, the Contractor certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, F.S. Pursuant to Section 287.135, F.S., the City may immediately terminate this Agreement at its sole option if the Contractor, its affiliates, or its subcontractors are found to have submitted a false certification; or if the Contractor, its affiliates, or its subcontractors are placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Agreement.

The Contractor agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.

As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize the above-stated contracting prohibitions then they shall become inoperative.

Section 19. No Improper Use

The Contractor will not use, nor cause or permit any employee or subcontractor to use or occupy in any manner whatsoever, City or private facilities or properties for any improper, immoral or offensive purpose, or for any purpose in violation of any federal, state, county or municipal ordinance, rule, order or regulation, or of any governmental rule or regulation now in effect or hereafter enacted or adopted. In the event of such violation by the Contractor the City, or its authorized representative, shall deem such conduct on the part of the Contractor to be objectionable or improper. Accordingly, the City shall have the right to suspend this Agreement with Contractor in full or in part. Should the Contractor fail to correct any noted violation, conduct, or practice to the satisfaction of the City within twenty-four (24) hours after receiving notice of such violation, conduct, or practice, such suspension shall continue until the violation is cured. The Contractor further agrees not to commence operations during the suspension period until the violation has been corrected to the satisfaction of the City. The City reserves the right to immediately terminate this Agreement for the foregoing actions or inactions by the Contractor.

Section 20. Default

An event of default shall mean a breach of this Agreement by Contractor. Without limiting the generality of the foregoing and in addition to those instances referred to as a breach, an event of default shall include the following:

- a. Contractor has not performed Services on a timely basis;
- b. Contractor has refused or failed, except in the case for which an extension of time is provided, to supply enough properly skilled staff personnel;
- c. Contractor has become insolvent or has assigned the proceeds received for the benefit of Contractor's creditors, or Contractor has taken advantage of any insolvency statute or debtor/creditor law or, if Contractor's affairs have been put in the hands of a receiver;
- d. Contractor has failed to obtain the approval of City where required by this Agreement;
- e. Contractor has refused or failed, except in the case for which an applicable extension of time is provided, to provide the Services as defined in this agreement;
- f. Contractor's refusal of re-inspection will result in terminating the Agreement immediately. No future work will be awarded.

In the event Contractor fails to comply with the provisions of this Agreement, the City may declare Contractor in default, notify Contractor in writing, and give Contractor 15 calendar Days to cure the default. If Contractor fails to cure the default, compensation will be due only for any properly completed construction Services, minus any damages pursuant to Section 11.3. In the event payment has been made for such Services not completed, Contractor shall return these sums to the City within ten (10) days after notice that these sums are due. Nothing in this Section shall limit the City's right to terminate, at any time, pursuant to Section 12 below, and its right for damages under Section 11.3.

In the event of Default, Contractor shall be liable for all damages resulting from the default, including but not limited to:

- a. Lost funding, and
- b. The difference between the cost associated with procuring services and the amount actually expended by the City, including procurement and administrative costs.

The City may take advantage of each and every remedy specifically existing at law or in equity. Each and every remedy shall be in addition to every other remedy specifically given or otherwise existing and may be exercised from time to time as often and in such order as may be deemed expedient by the City. The exercise or the beginning of the exercise of one remedy shall not be deemed to be a waiver of the right to exercise any other remedy. The City's rights and remedies as set forth in this Agreement are not exclusive and are in addition to any other rights and remedies available to the City at law or in equity.

Section 21. No Discrimination

The Contractor agrees not to discriminate against or upon employees or subcontractors as to race, sex, color, creed or national origin.

Section 22. Safety, Governmental Compliance and Hazardous Materials

Contractor shall be responsible for safety of its operations and its employees and shall take all reasonable safety precautions with respect to its Work. Contractor in addition to its own standards shall comply with all safety policies and procedures initiated by Contractor for the Services, including Contractor's policy regarding drugs, alcohol and controlled substances, and shall comply with all applicable laws, ordinances, rules, regulations and orders of any public authority for the safety of persons or property, including, but not limited to, the Federal Occupational Safety and Health Act (OSHA). Contractor shall immediately notify City of any injury to any of the Contractor's employees. Contractor shall require its personnel to attend any safety meetings the City might conduct and direct Contractor to attend.

Contractor agrees that in performing the Services, it will not create, use or dispose of any hazardous chemicals or substances in an unlawful or hazardous manner and shall be solely responsible for the lawful, proper and safe handling, storage and removal of all hazardous wastes, chemicals and substances which are introduced to the

site, or removed from the site, by Contractor's operations. The term "hazardous wastes, chemicals or substances" shall mean those materials and substances prohibited, proscribed, or the use of which is controlled by any agency of the federal government or the applicable state or local agency having jurisdiction of such matters. In the event Contractor encounters material reasonably believed to be hazardous wastes, chemicals or substances, Contractor shall immediately stop work in the area affected and report such condition to City in writing. Contractor shall comply with all federal, state and local regulations dealing with the use, storage or disposal of all hazardous wastes, chemicals and substances. Contractor shall be responsible for any and all claims and damages resulting from its use, handling, storage, removal and disposal of such hazardous wastes, chemicals or substances from the Project, and will indemnify, defend and hold City harmless from any and all liability associated with such use, handling, storage, removal and disposal including all associated attorney's fees and costs and costs of all cleanup operations wherever and whenever required by any governmental authority or City.

Section 23. Change Order Authorization

The City Manager shall have the authority on behalf of Owner to execute all change orders to the Agreement to the extent provided for under the Owner's Purchasing Policy and accompanying administrative procedures.

Section 24. E-Verify

Contractors providing service to the City are required to comply with all state and federal employment laws. This includes, but is not limited to, laws resulting from the Immigration and Reform and Control Act of 1986, wherein all employers are required to verify the identity and employment eligibility of all employees. The Department of Homeland Security, U.S. Citizenship and Immigration Services require employees and employers to complete Form I-9 and the employer must examine evidence of identity and employment eligibility within three business days of the date employment begins. Non-compliant Contractors will be subject to contract sanctions, up to and including contract termination.

Section 25. Independent Contractor

During the term of this Agreement, Contractor shall be an independent Contractor and not an employee of the City. Contractor is not an agent of, or authorized to transact business, enter into agreements, or otherwise make commitments on behalf of the City, unless expressly authorized in writing by the City Manager or his designee. Contractor shall perform the Services at the request of the City Manager or his designee. Nothing set forth in this Agreement shall be construed to create the relationship of employer and employee or principal and agent between the City and Contractor. Unless expressly provided for otherwise in this Agreement, Contractor shall not act or attempt to act or represent itself, directly or indirectly or by implication, as an employee of the City or in any manner assume or create, or attempt to assume or create, any obligation on behalf of or in the name of the City. Accordingly, Contractor shall not attain, nor be entitled to, any rights or benefits of the City, nor any rights generally afforded City employees. Contractor further understands that Florida Worker's Compensation benefits available to employees of the City are not available to Contractor or to any employee or agent of the Contractor. Contractor shall be responsible for complying with Florida's Worker's Compensation laws. All employees and subcontractors of the Contractor shall be considered to be, at all times, the sole employees or Contractors of the Contractor, under its sole direction and not an employee, Contractor or agent of the City. Contractor is responsible for the payment of all required payroll taxes, whether federal, state, or local in nature, including, but not limited to income taxes, Social Security taxes, Federal Unemployment Compensation taxes, and any other fees, charges, licenses, or payments required by law.

Section 26. Headings

The sections headings used in this Agreement are for reference and convenience only and shall not enter into the interpretation hereof.

Section 27. Survival of Terms

Termination or expiration of this Agreement for any reason shall not release either Party from any liabilities or obligations set forth in this Agreement, which (a) the Parties have expressly agreed shall survive any such termination, or (b) remain to be performed and by their nature would be intended to be applicable following any such termination or expiration. Any liabilities which have accrued prior to termination pursuant to the insurance and/or indemnification obligations set forth below shall survive the termination of this Agreement.

Section 28. Force Majeure

Non-performance of Contractor or the City shall be excused to the extent that performance is rendered impossible or delayed by strike, fire, hurricane, flood, terrorism, governmental acts or orders or restrictions, or other similar reason where failure to ("Force Majeure"), provided that the non-conforming Party gives prompt notice of such conditions to the other Party and makes all reasonable efforts to perform.

Section 29. No Contingent Fees

The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person(s), company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement.

Section 30. Investigation and Utilities

Contractor shall have the sole responsibility of satisfying itself concerning the nature and location of the Work and the general and local conditions, and particularly, but without limitation, with respect to the following: those affecting transportation, access, disposal, handling and storage of materials; availability and quality of labor; water and electric power; availability and condition of roads; work area; living facilities; climatic conditions and seasons; physical conditions at the work-site and the project area as a whole; topography and ground surface conditions; nature and quantity of the surface materials to be encountered; subsurface conditions; equipment and facilities needed preliminary to and during performance of the Work; and all other costs associated with such performance. The failure of Contractor to acquaint itself with any applicable conditions shall not relieve Contractor from any of its responsibilities to perform under the Contract Documents, nor shall it be considered the basis for any claim for additional time or compensation.

Contractor shall locate all existing roadways, railways, drainage facilities and utility services above, upon, or under the Project Site, said roadways, railways, drainage facilities and utilities being referred to in this Sub-Section as the "Utilities". Contractor shall contact owners of all Utilities to determine the necessity for relocating or temporarily interrupting any Utilities during the construction of the Project. Contractor shall schedule and coordinate its Work around any such relocation or temporary service interruption. Contractor shall be responsible for properly shoring, supporting and protecting all Utilities at all times during the course of the Work. Contractor is responsible for coordinating all other utility work so as to not interfere with the prosecution of the Work (except those utilities to be coordinated by Owner as described in other places of the contract documents).

Section 31. Schedule

Contractor, after receipt of the Notice of Award and within ten (10) days following a request by the Project Manager, shall prepare and submit for review and approval, a progress schedule for the Project (herein "Progress Schedule"). The Progress Schedule shall relate to all Work required by the Contract Documents, and shall utilize the Critical Path method of scheduling, or a Gantt Chart (Bar Chart), and shall provide for expeditious and practicable execution of the Work within the Contract Time. The Progress Schedule shall indicate the dates for starting and completing the various stages of the Work.

The Progress Schedule shall be updated monthly by Contractor. All monthly updates to the Progress Schedule shall be subject to the Project Manager's review and approval. Contractor shall submit the updates to the Progress Schedule with its monthly Applications for Payment noted below. The Project Manager's review and approval of the submitted Progress Schedule updates shall be a condition precedent to Owner's obligation to pay

Contractor.

Section 32. Payments Withheld

Owner may decline to approve any Application for Payment, or portions thereof, because of defective or incomplete work, outstanding punch list items, subsequently discovered evidence or subsequent inspections. The Owner may nullify the whole or any part of any approval for payment previously issued and Owner may withhold any payments otherwise due Contractor under this Agreement or any other agreement between Owner and Contractor, to such extent as may be necessary in the Owner's opinion to protect it from loss because of: (a) defective Work not remedied; (b) third party claims failed or reasonable evidence indicating probable fling of such claims; (c) failure of Contractor to make payment properly to subContractors or for labor, materials or equipment; (d) reasonable doubt that the Work can be completed for the unpaid balance of the Contract Amount; (e) reasonable indication that the Work will not be completed within the Contract Time; (f) unsatisfactory prosecution of the Work by the Contractor; or (g) any other material breach of the Contract Documents.

If any conditions described above are not remedied or removed, Owner may, after three (3) days written notice, rectify the same at Contractor's expense. Owner also may offset against any sums due Contractor the amount of any liquidated or unliquidated obligations of Contractor to Owner, whether relating to or arising out of this Agreement or any other agreement between Contractor and Owner.

Section 33. Progress Payments

Prior to submitting its first monthly Application for Payment, Contractor shall submit to Project Manager, for their review and approval, a schedule of values based upon the Contract Price, listing the major elements of the Work and the dollar value for each element. After its approval by the Project Manager, this schedule of values shall be used as the basis for Contractor's monthly Applications for Payment. This schedule shall be updated and submitted each month to the Project Manager along with a completed copy of the Application for Payment form signed by Contractor's authorized representative and attached to the Agreement as Exhibit D.

Prior to submitting its first monthly Application for Payment, Contractor shall submit to the Project Manager a complete list of all its proposed subcontractors and material-men, showing the work and materials involved and the dollar amount of each proposed subcontract and purchase order. The first Application for Payment shall be submitted no earlier than thirty (30) days after the Commencement Date.

If payment is requested on the basis of materials and equipment not incorporated into the Project, but delivered and suitably stored at the site or at another location agreed to by Owner in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice or other documentation warranting that Owner has received the materials and equipment free and clear of all liens, charges, security interests and encumbrances, together with evidence that the materials and equipment are covered by appropriate property insurance and other arrangements to protect Owner's interest therein, all of which shall be subject to Owner's satisfaction.

Within ten (10) calendar days after receipt of each Application for Payment, the Project Manager shall either: (1) indicate its approval of the requested payment; (2) indicate its approval of only a portion of the requested payment, stating in writing its reasons therefor; or (3) return the Application for Payment to Contractor indicating, in writing, the reason for refusing to approve payment. Payments of proper invoices shall be processed in accordance with Section 218.70, F.S. and the administrative procedures established by the Owner's Purchasing and Finance Departments respectively.

In the event of a total denial and return of the Application for Payment by the Project Manager, Contractor may make the necessary corrections and re-submit the Application for Payment. Owner shall, within thirty (30) calendar days after Project Manager approval of an Application for Payment, pay Contractor the amounts so approved.

Owner shall retain five percent (5%) of the gross amount of each monthly payment request or five percent (5%) of the portion thereof approved by the Project Manager for payment, whichever is less. Such sum shall be accumulated and not released to Contractor until final payment is due unless otherwise agreed to by Owner. The

Project Manager shall have the discretion to establish, in writing, a schedule to periodically reduce the percentage of cumulative retainage held throughout the course of the project schedule.

Monthly payments to Contractor shall in no way imply approval or acceptance of Contractor's work.

Each Application for Payment shall be accompanied by a Release and Affidavit, in the form attached as Exhibit C, showing that all materials, labor, equipment and other bills associated with that portion of the Work payment is being requested on have been paid in full. Owner shall not be required to make payment until and unless these affidavits are furnished by Contractor.

Contractor agrees and understands that funding limitations exist and that the expenditure of funds must be spread over the duration of the Project at regular intervals based on the Contract Amount and Progress Schedule. Accordingly, prior to submitting its first monthly Application for Payment, Contractor shall prepare and submit for Project Manager's review and approval, a detailed Project Funding Schedule, which shall be updated as necessary and approved by Owner to reflect approved adjustments to the Contract Amount and Contract Time. No voluntary acceleration or early completion of the Work shall modify the time of payments to Contractor as set forth in the approved Project Funding Schedule.

Prior to release of final payment and final retainage, Contractor's Representative and the Project Manager shall jointly complete the Final Payment Checklist, a representative copy of which is enclosed in the agreement and labeled Exhibit H.

Section 34. Final Payment

Owner shall make final payment to Contractor within thirty (30) calendar days after the Work is finally inspected and accepted by Project Manager, provided that Contractor first, and as an explicit condition precedent to the accrual of Contractor's right to final payment, shall have furnished Owner with a properly executed and notarized copy of the Release and Affidavit attached as Exhibit C, as well as, a duly executed copy of the Sureties consent to final payment and such other documentation that may be required by the Contract Documents and Owner.

Contractor's acceptance of final payment shall constitute a full waiver of any and all claims by Contractor against Owner arising out of this Agreement or otherwise relating to the Project, except those previously made in writing and identified by Contractor as unsettled at the time of the final Application for Payment. Neither the acceptance of the Work nor payment by Owner shall be deemed to be a waiver of Owner's right to enforce any obligations of Contractor hereunder or to the recovery of damages for defective Work not discovered by the Design Professional or Project Manager at the time of final inspection.

Section 35. Submittals and Substitutions

Any substitution of products/materials from specifications shall be approved in writing by Owner in advance.

Section 36. Cleanup and Protections

Contractor agrees to keep the Project Site clean at all times of debris, rubbish and waste materials arising out of the Work. At the completion of the Work, Contractor shall remove all debris, rubbish and waste materials from and about the Project Site, as well as all tools, appliances, construction equipment and machinery and surplus materials, and shall leave the Project Site clean and ready for occupancy by Owner.

Any existing surface or subsurface improvements, including, but not limited to, pavements, curbs, sidewalks, pipes, utilities, footings, structures, trees and shrubbery, not indicated in the Contract Documents to be removed or altered, shall be protected by Contractor from damage during the prosecution of the Work. Any such improvements so damaged shall be restored by Contractor to the condition equal to that existing at the time of Contractor's commencement of the Work.

Section 37. Defective Work

Work not conforming to the requirements of the Contract Documents or any warranties made or assigned by Contractor to Owner shall be deemed defective Work. If required by the Owner, Contractor shall as directed, either correct all defective Work, whether or not fabricated, installed or completed, or if the defective Work has been rejected by the Owner, remove it from the site and replace it with non-defective Work. Contractor shall bear all direct, indirect and consequential costs of such correction or removal (including, but not limited to fees and charges of engineers, architects, attorneys and other professionals) made necessary thereby, and shall hold Owner harmless for same.

If the Owner consider it necessary or advisable that covered Work be observed by Design Professional or inspected or tested by others, Contractor, at Project Manager's request, shall uncover, expose or otherwise make available for observation, inspection or tests as The Owner may require, that portion of the Work in question, furnishing all necessary labor, material and equipment. If it is found that such Work is defective, Contractor shall bear all direct, indirect and consequential costs of such uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction (including, but not limited to, fees and charges of engineers, architects, attorneys and other professionals), and Owner shall be entitled to an appropriate decrease in the Contract Amount. If, however, such Work is not found to be defective, Contractor shall be allowed an increase in the Contract Amount and/or an extension to the Contract Time, directly attributable to such uncovering, exposure, observation, inspection, testing and reconstruction.

If any portion of the Work is defective, or if Contractor fails to supply sufficient skilled workers, suitable materials or equipment or fails to finish or perform the Work in such a way that the completed Work will conform to the Contract Documents, the Owner may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of the Owner to stop the Work shall not give rise to any duty on the part of the Owner to exercise this right for the benefit of Contractor or any other party.

Should Owner determine, at its sole opinion, it is in Owner's best interest to accept defective Work, Owner may do so. Contractor shall bear all direct, indirect and consequential costs attributable to Owner's evaluation of and determination to accept defective Work. If such determination is rendered prior to final payment, a Change Order shall be executed evidencing such acceptance of such defective Work, incorporating the necessary revisions in the Contract Documents and reflecting an appropriate decrease in the Contract Amount. If Owner accepts such defective Work after final payment, Contractor shall promptly pay Owner an appropriate amount to adequately compensate Owner for its acceptance of the defective Work.

If Contractor fails, within a reasonable time after the written notice from the Owner, to correct defective Work or to remove and replace rejected defective Work as required by the Owner, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any of the provisions of the Contract Documents, Owner may, after seven (7) days written notice to Contractor, correct and remedy any such deficiency. To the extent necessary to complete corrective and remedial action, Owner may exclude Contractor from any or all of the Project Site, take possession of all or any part of the Work, and suspend Contractor's services related thereto, take possession of Contractor's tools, appliances, construction equipment and machinery at the Project Site and incorporate in the Work all materials and equipment stored at the Project Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Design Professional and their respective representatives, agents, and employees such access to the Project Site as may be necessary to enable Owner to exercise the rights and remedies under this paragraph. All direct, indirect and consequential costs of Owner in exercising such rights and remedies shall be charged against Contractor, and a Change Order shall be issued, incorporating the necessary revisions to the Contract Documents, including an appropriate decrease to the Contract Amount. Such direct, indirect and consequential costs shall include, but not be limited to, fees and charges of engineers, architects, attorneys and other professionals, all court costs and all costs of repair and replacement of work of others destroyed or damaged by correction, removal or replacement of Contractor's defective Work. Contractor shall not be allowed an extension of the Contract Time because of any delay in performance of the Work attributable to the exercise by Owner of Owner's rights and remedies hereunder.

Section 38. Supervision and Superintendents

Contractor shall plan, organize, supervise, schedule, monitor, direct and control 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 the Contract Documents. Contractor shall be responsible to see that the finished Work complies accurately with the Contract Documents. Contractor shall keep on the Work at all times during its progress a competent resident superintendent, who shall not be replaced without prior written notice to Project Manager except under extraordinary circumstances. The superintendent shall be employed by Contractor and be Contractor's representative at the Project Site and shall have authority to act on behalf of Contractor. All communications given to the superintendent shall be as binding as if given to Contractor. Owner shall have the right to direct Contractor to remove and replace its Project superintendent, with or without cause.

Contractor shall have a competent superintendent on the project at all times whenever Contractor's work crews, or work crews of other parties authorized by the Owner are engaged in any activity whatsoever associated with the Project. Should Contractor fail to comply with the above condition, the Owner shall, at his discretion, deduct from Contractor's monthly pay estimate, sufficient moneys to account for Owner's loss of adequate project supervision, not as a penalty, but as liquidated damages.

Section 39. Protection of Work

Contractor shall fully protect the Work from loss or damage and shall bear the cost of any such loss or damage until final payment has been made. If Contractor or any one for whom Contractor is legally liable for is responsible for any loss or damage to the Work, or other work or materials of Owner or Owner's separate contractors, Contractor shall be charged with the same, and any moneys necessary to replace such loss or damage shall be deducted from any amounts due Contractor.

Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent property to stresses or pressures that will endanger it.

Contractor shall not disturb any benchmark established by Owner or Design Professional with respect to the Project. If Contractor, or its subcontractors, agents or anyone for whom Contractor is legally liable, disturbs Owner or Design Professional's benchmarks, Contractor shall immediately notify Project Manager and Design Professional. Owner or Design Professional shall re-establish the benchmarks and Contractor shall be liable for all costs incurred by Owner associated therewith.

Section 40. Use of Premises

Contractor shall maintain all construction equipment, the storage of materials and equipment and the operations of workers to the Project Site and land and areas identified in and permitted by the Contract Documents and other lands and areas permitted by law, rights of way, permits and easements, and shall not unreasonably encumber the Project Site with construction equipment or other material or equipment. Contractor shall assume full responsibility for any damage to any such land or area, or to Owner or occupant thereof, or any land or areas contiguous thereto, resulting from the performance of the Work.

Section 41. Emergencies

In the event of an emergency affecting the safety or protection of persons or the Work or property at the Project Site or adjacent thereto, Contractor, without special instruction or authorization from Owner is obligated to act to prevent threatened damage, injury or loss. Contractor shall give the Owner written notice within forty-eight (48) hours after the occurrence of the emergency, if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby. If the Owner determines that a change in the Contract Documents is required because of the action taken in response to an emergency, a Change Order shall be issued to document the consequences of the changes or variations. If Contractor fails to provide the forty-eight- (48) hour written notice noted above, Contractor shall be deemed to have waived any right it otherwise may have had to seek an adjustment to the Contract Amount or an extension to the Contract Time.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK; SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have executed this Agreement on the latest date(s) indicated below.

ATTEST:

CONTRACTOR:

Corporate Secretary/Witness

2nd Witness (If Not Incorporated)

BY:

ITS:
President (If Incorporated)

Date:_____

[Corporate Seal]

ATTEST:

OWNER:

CITY OF MARCO ISLAND, FLORIDA

BY: _____
Joan Taylor, City Clerk

BY: _____
Michael A. McNees, City Manager

Date:_____

Approved as to form and legal sufficiency for the use and reliance of the City of Marco Island only.

BY: _____
Alan L. Gabriel, City Attorney

E. AGREEMENT EXHIBITS

EXHIBIT A-1 PUBLIC PAYMENT BOND

Water Quality Treatment Exfiltration Swales-S. Collier Blvd Contract #2025-027

Bond No. _____
Contract No. **2025-027**

KNOW ALL MEN BY THESE PRESENTS: _____, as Principal,
and _____, as Surety, located at _____
(Business Address)
are held and firmly bound to **City of Marco Island**, as Obligee in the sum of
_____ **dollars and _____ cents** (\$xxxxxxx.00) for the payment
whereof we bind ourselves, our heirs, executors, personal representatives, successors and assigns, jointly
and severally.

WHEREAS, Principal has entered into a contract dated as of the ____ Day of _____, 20__ with
Obligee for **Water Quality Treatment Exfiltration Swales-S. Collier Blvd - ITB# 2025-027** in
accordance with drawings and specifications, which contract is incorporated by reference and made a
part hereof and is referred to as the Contract.

THE CONDITION OF THIS BOND is that if Principal:

Promptly makes payment to all claimants as defined in Section 255.05(1), Florida Statutes,
supplying Principal with labor, materials or supplies, used directly or indirectly by Principal in the
prosecution of the work provided for in the Contract, then this bond is void; otherwise it remains
in full force.

Any changes in or under the Contract and compliance or noncompliance with any formalities
connected with the Contract or the changes do not affect Sureties obligation under this Bond.

The provisions of this bond are subject to the time limitations of Section 255.05(2). In no event
will the Surety be liable in the aggregate to claimants for more than the penal sum of this Payment
Bond, regardless of the number of suits that may be filed by claimants.

IN WITNESS WHEREOF, the above parties have executed this instrument this _____ day of
_____, 20____, the name of each party being affixed, and these presents duly signed by
its under-signed representative, pursuant to authority of its governing body.

Signed, sealed and delivered
in the presence of:

PRINCIPAL

Witnesses as to Principal

BY: _____

NAME: _____

ITS: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization this _____ day of _____, 20____, by _____ (name of officer or agent, title of officer or agent) of _____ (name of corporation acknowledging), a _____ (state or place of incorporation) corporation, on behalf of the corporation. He/she is personally known to me or has produced _____ (type of identification) as identification.

My Commission Expires: _____

(Signature of Notary)

NAME: _____
(Legibly Printed)

(AFFIX OFFICIAL SEAL)

Notary Public, State of _____
Commission No.: _____

ATTEST:

SURETY:

(Printed Name)

(Business Address)

(Authorized Signature)

Witnesses to Surety

(Printed Name)

OR

As Attorney in Fact
(Attach Power of Attorney)

Witnesses

(Printed Name)

(Business Address)

(Telephone Number)

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization this _____ day of _____, 20____, by _____ (name of officer or agent, title of officer or agent) of _____ (name of corporation acknowledging), a _____ (state or place of incorporation) corporation, on behalf of the corporation. He/she is personally known to me or has produced _____ (type of identification) as identification.

My Commission Expires:

(Signature)

Name: _____
(Legibly Printed)

(AFFIX OFFICIAL SEAL)

Notary Public, State of: _____

Commission No.: _____

EXHIBIT A-2
PUBLIC PERFORMANCE BOND
Water Quality Treatment Exfiltration Swales-S. Collier Blvd
Contract #2025-027

Bond No. _____
 Contract No: **2025-027**

KNOW ALL MEN BY THESE PRESENTS: _____, as Principal,
 and _____, as Surety, located at _____
 _____ (Business Address)
 are held and firmly bound to **City of Marco Island**, as Obligee in the sum of
 _____ **dollars and _____ cents (\$xxxxxxx.00)** for the payment
 whereof we bind ourselves, our heirs, executors, personal representatives, successors and assigns, jointly
 and severally.

WHEREAS, Principal has entered into a contract dated as of the ____ day of _____, 20__ with
 Obligee for **Water Quality Treatment Exfiltration Swales-S. Collier Blvd - ITB# 2025-027** in
 accordance with drawings and specifications, which contract is incorporated by reference and made a
 part hereof and is referred to as the Contract.

THE CONDITION OF THIS BOND is that if Principal:

1. Performs the Contract at the times and in the manner prescribed in the Contract; and
2. Pays Obligee any and all losses, damages, costs and attorneys' fees that Obligee sustains because of any default by Principal under the Contract, including, but not limited to, all delay damages, whether liquidated or actual, incurred by Obligee; and
3. Performs the guarantee of all work and materials furnished under the Contract for the time specified in the Contract, then this bond is void; otherwise it remains in full force. Any changes in or under the Contract and compliance or noncompliance with any formalities connected with the Contract or the changes do not affect Sureties obligation under this Bond.

The Surety, for value received, hereby stipulates and agrees that no changes, extensions of time, alterations or additions to the terms of the Contract or other work to be performed hereunder, or the specifications referred to therein shall in anywise affect its obligations under this bond, and it does hereby waive notice of any such changes, extensions of time, alterations or additions to the terms of the Contract or to work or to the specifications.

This instrument shall be construed in all respects as a common law bond. It is expressly understood that the time provisions and statute of limitations under Section 255.05, Florida Statutes, shall not apply to this bond.

In no event will the Surety be liable in the aggregate to Obligee for more than the penal sum of this Performance Bond regardless of the number of suits that may be filed by Obligee.

IN WITNESS WHEREOF, the above parties have executed this instrument this _____ day of _____, 20____, the name of each party being affixed, and these presents duly signed by its under-signed representative, pursuant to authority of its governing body.

Signed, sealed and delivered
in the presence of:

PRINCIPAL

_____ BY: _____
Witnesses as to Principal

NAME: _____
ITS: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online
notarization this _____ day of _____, 20____, by
_____ (name of officer
or agent, title of officer or agent) of _____
(name of corporation acknowledging), a _____ (state or place of incorporation)
corporation, on behalf of the corporation. He/she is personally known to me or has produced
_____ (type of identification) as identification.

My Commission Expires: _____
(Signature of Notary)

NAME: _____
(Legibly Printed)

(AFFIX OFFICIAL SEAL) Notary Public, State of _____
Commission No.: _____

ATTEST: SURETY: _____
(Printed Name)

(Business Address)

(Authorized Signature)

Witnesses as to Surety (Printed Name)

OR

 As Attorney in Fact
 (Attach Power of Attorney)

 _____ Witnesses
 (Printed Name)

 (Business Address)

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization this _____ day of _____, 20____, by _____ (name of officer or agent, title of officer or agent) of _____ (name of corporation acknowledging), a _____ (state or place of incorporation) corporation, on behalf of the corporation. He/she is personally known to me or has produced _____ (type of identification) as identification.

My Commission Expires:

 (Signature)

Name: _____
 (Legibly Printed)

(AFFIX OFFICIAL SEAL)

Notary Public, State of: _____

EXHIBIT B
INSURANCE REQUIREMENTS
Water Quality Treatment Exfiltration Swales-S. Collier Blvd
Contract #2025-027

- (1) The amounts and types of insurance coverage shall conform to the following minimum requirements with the use of Insurance Services Office (ISO) forms and endorsements or their equivalents.
- (2) The insurance required by this Agreement shall be written for not less than the limits specified herein or required by law, whichever is greater.
- (3) Coverage shall be maintained without interruption from the date of commencement of the work until the date of completion and acceptance of the Project by Owner or as specified in this Agreement, whichever is longer. Required insurance coverages shall apply to all Work specified in the Contract Documents.
- (4) Certificates of insurance acceptable to Owner shall be filed with Owner within ten (10) calendar days after Notice of Award is received by Contractor/Consultant/Professional.
- (5) Contractor and/or its insurance carrier shall provide 30 days written notice to Owner of policy cancellation or non-renewal on the part of the insurance carrier or Contractor.
- (6) All insurance coverage of Contractor/Consultant/Professional shall be primary to any insurance or self-insurance program carried by Owner applicable to this Project.
- (7) The acceptance by Owner of any Certificate of Insurance does not constitute approval or agreement by Owner that the insurance requirements have been satisfied or that the insurance policy shown on the Certificate of Insurance is in compliance with the requirements of this Agreement.
- (8) Contractor/Consultant/Professional shall require each of its subcontractors to procure and maintain, until the completion of the subcontractors work, insurance of the types and to the limits specified in this Section unless such insurance requirements for the subcontractor are expressly waived in writing by Owner.
- (9) Should at any time Contractor/Consultant/Professional not maintain the insurance coverage required herein, Owner may terminate the Agreement or at its sole discretion shall be authorized to purchase such coverage's and charge Contractor for such coverage's purchased. Owner shall be under no obligation to purchase such insurance, nor shall it be responsible for the coverage's purchased or the insurance company or companies used. The decision of Owner to purchase such insurance coverage shall in no way be construed to be a waiver of any of its rights under the Contract Documents.
- (10) If the initial, or any subsequently issued Certificate of Insurance expires prior to the completion of the Work or termination of the Agreement, Contractor/Consultant/Professional shall furnish to the Owner, renewal or replacement Certificate(s) of Insurance not later than ten (10) calendar days after to the date of their expiration. Failure of Contractor to provide the Owner with such renewal certificate(s) shall be considered justification for the Owner to terminate the Agreement.

WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY

WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE shall be maintained by Contractor/Consultant/Professional during the term of this Agreement for all employees engaged in the work or services under this Agreement in accordance with the laws of the State of Florida. The amounts of such insurance shall not be less than:

- a. Workers' Compensation – Florida Statutory Requirements
- b. Employers' Liability (check one)
 X \$1,000,000 Each Accident

The insurance company shall waive its Rights of Subrogation against Owner and the policy shall be so endorsed.

COMMERCIAL GENERAL LIABILITY

(1) Commercial General Liability Insurance shall be maintained by Contractor/ Consultant/ Professional. Coverage will include, but not be limited to, Bodily Injury, Property Damage, Personal Injury, Contractual Liability for this Agreement, Independent Contractors, Broad Form Property Damage including Completed Operations and Products and Completed Operations Coverage. Limits of Liability shall not be less than the following:

General Aggregate	\$2,000,000
Products/Completed Operations Aggregate	\$1,000,000
Personal and Advertising Injury	\$1,000,000
Each Occurrence	\$1,000,000
Fire Damage	\$100,000

(2) The General Aggregate Limit shall apply separately to this Project and the policy shall be endorsed using the following endorsement wording. "This endorsement modifies insurance provided under the following: Commercial General Liability Coverage Part. The General Aggregate Limit under LIMITS OF INSURANCE applies separately to each of your projects away from premises owned by or rented to you."

(3) If the General Liability insurance required herein is issued or renewed on a "claims made" basis, as opposed to the "occurrence" form, the retroactive date for coverage shall be no later than the commencement date of the Project and shall provide that in the event of cancellation or non-renewal the Extended Reporting Period (Discovery Period) for claims shall be no less than three (3) years.

(4) Owner shall be named as an Additional Insured and the policy shall be endorsed that such coverage shall be primary to any similar coverage carried by Owner.

In the event Contractor subcontracts any part or all of the Work hereunder to any third party, Contractor shall require each and every subcontractor to identify the City of Marco Island as an additional insured on all insurance policies as required by Contractor. Any contract awarded by Contractor for work under this Agreement shall include a provision whereby Contractor's subcontractor agrees to defend, indemnify, and pay on behalf, save and hold the City of Marco Island harmless from all damages arising in connection with Contractor's subcontract.

(5) Coverage shall be included for explosion, collapse or underground property damage claims.

PROPERTY INSURANCE - BUILDERS RISK

N/a

AUTOMOBILE LIABILITY INSURANCE

Automobile Liability Insurance shall be maintained by Contractor/Consultant/Professional for ownership, maintenance or use of any owned, non-owned or hired vehicle with limits of not less than \$1,000,000 Bodily Injury & Property Damage.

UMBRELLA LIABILITY

(1) Umbrella Liability may be maintained as part of the liability insurance of Contractor/Consultant/ Professional and, if so, such shall be in addition to and in excess of any Employers' Liability, Commercial General Liability, Automobile Liability and Professional Liability coverage's and shall include all coverage's on a "following form" basis.

(2) The policy shall contain wording to the effect that, in the event of the exhaustion of any underlying

coverage due to the payment of claims, the Umbrella policy will "drop down" to apply as primary insurance.

(3) The General Aggregate limit, if applicable, shall apply separately to this project and the policy shall be so endorsed.

OTHER INSURANCE

Due to the special nature of some projects (such as working on, under or above water), additional insurance coverage may be required.

If the below is checked, that specified insurance is also required.

Other Insurance as indicated below:

LONGSHOREMAN, HARBORWORKERS OR JONES ACT

Required by this Agreement? ___ Yes ☒ No

a. Longshoreman & Harbor workers

\$ Statutory Limits

b. Jones Act: Either under the Protection

& Indemnity coverage or under separate
cover in the limits of not less than

\$ 1,000,000

*** Not Required if working from shore. Otherwise, it is required**

POLLUTION AND REMEDIATION LIABILITY INSURANCE

Required by this Agreement? ___ Yes ☒ No

(1) Contractor/Professional/Consultant shall maintain:

- a. Pollution and Remediation Liability Insurance including the cost of defense during the term of this agreement and for a period of five (5) years following the completion of the Project as outlined in this Agreement. Such coverage shall apply specifically to the contracting services/scope of work as outlined in this Agreement and shall include but not be limited to Pollution Legal Liability (legal liability arising out of the discharge, dispersal, release, seepage, migration or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gasses, hazardous materials, waste materials or other irritants, contaminants or pollutants into or upon land, the atmosphere or any watercourse or body of water including groundwater at, under or emanating from the project);
- b. Remediation Legal Liability/Expense (expenses incurred for or in connection with the investigation, monitoring, removal, disposal, treatment or neutralization of a condition arising from the discharge, dispersal, release, seepage, migration or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gasses, hazardous materials, waste materials or other irritants, contaminants or pollutants into or upon land and the atmosphere or any watercourse or body of water including groundwater at, under or emanating from the Project, as well as the cost to repair or replace real or personal property damaged during the course of Remediation Expense in order to restore the property to the condition it was in prior to the Remediation Expense to the extent required by Federal, State, Local or Provincial laws, regulations or statutes or any subsequent amendments thereof); and
- c. Transportation Legal Liability/Expense – Pollution Legal Liability or Remediation Legal Liability/Expense arising out of the movement by Contractor/professional/Consultant of product or waste of Owner to its final delivery point as specified under this Agreement.

(2) Limits Required:

Each Loss or Expense

\$2,000,000

Annual Aggregate

\$4,000,000

The Annual Aggregate limit shall apply separately to this project.

(3) If coverage is provided on a “Claims Made” form as opposed to an “Occurrence” form, the retroactive date for coverage shall be no later than the commencement date of the Project and shall provide that, in the event of cancellation or non-renewal, the Extended Reporting Period (Discovery Period) for claims shall be no less than three (3) years.

(4) The City of Marco Island City Council shall be named as an Additional Insured and the policy shall be endorsed that such coverage shall be primary to any similar coverage carried by City.

(5) This policy shall include contractual liability coverage to contemplate the indemnity provisions of this agreement.

(6) Contractor shall ensure that all subcontractors comply with the same insurance requirements that he is required to meet. The same contractor shall provide the City with certificates of insurance meeting the required insurance provisions.

(7) The City of Marco Island must be named as “**ADDITIONAL INSURED**” on the Insurance Certificate for Commercial General Liability.

(8) The City of Marco Island shall be named as the Certificate Holder. NOTE: The “Certificate Holder” should read as follows:

The City of Marco Island
50 Bald Eagle Drive
Marco Island, FL 34145

(9) **Thirty (30) Days Cancellation Notice is required.**

EXHIBIT C
RELEASE AND AFFIDAVIT FORM
Water Quality Treatment Exfiltration Swales-S. Collier Blvd
Contract #2025-027

COUNTY OF COLLIER
STATE OF FLORIDA

Before me, the undersigned authority, personally appeared _____ ("Affiant"), who after being duly sworn, deposes and says:

(1) The Affiant is the _____ (title) of _____ ("Contractor")

(2) In accordance with the Contract Documents and in consideration of \$ _____ paid, Contractor releases and waives for itself and its subcontractors, material- men, successors and assigns, all claims demands, damages, costs and expenses, whether in contract or in tort, against the City of Marco Island, Florida ("Owner"), relating in any way to the performance of the Contract 2025-027 for **Water Quality Treatment Exfiltration Swales-S. Collier Blvd** between Contractor and Owner, for the period from _____ to _____.

(3) Contractor certifies for itself and its subcontractors, material-men, successors and assigns, that all charges for labor, materials, supplies, lands, licenses and other expenses for which Owner might be sued or for which a lien or a demand against any payment bond might be filed, have been fully satisfied and paid.

(4) Contractor agrees to indemnify, defend and save harmless Owner from all demands or suits, actions, claims of liens or other charges filed or asserted against the Owner arising out of the performance by Contractor of the Work covered by this Release and Affidavit.

(5) This Release and Affidavit is given in connection with Contractor's Application for: Payment No. _____.

CONTRACTOR: _____

BY: _____

ITS: _____

Witness

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by _____ (name of officer or agent, title of officer or agent) of _____ (name of corporation acknowledging), a _____ (state or place of incorporation) corporation, on behalf of the corporation. He/she is personally known to me or has produced _____ (type of identification) as identification.

Sworn to (or affirmed) and subscribed before me by means of ☐ physical presence or ☐ online notarization, this ____ day of _____, 20____, by _____ (name of person making statement).

My Commission Expires:

(Signature)

Name: _____
(Legibly Printed)

(AFFIX OFFICIAL SEAL)

Notary Public, State of: _____

EXHIBIT D
FORM OF CONTRACT APPLICATION FOR PAYMENT
Water Quality Treatment Exfiltration Swales-S. Collier Blvd
Contract #2025-027

City of Marco Island, Florida (the OWNER)			
Owner's Project Manager Name:		Contract No.	2025-027
Department:		Payment Application Date:	
Submitted by: Contractor's Representative Name		Payment Application No.	
Contractor's Name & Address:			
Original Contract Time:		Original Contract Price:	\$
Revised Contract Time:		Total Change Orders to Date:	\$
Retainage @5% through _____ [Date]	\$	Revised Contract Amount:	\$
Percent Work Completed to Date:	%	Total Value of Work Completed & Stored to Date:	\$
Percent Contract Time Completed to Date:	%	Less Retainage	\$
TOTAL INVOICED THIS APPLICATION	\$	Total Earned Less Retainage	\$
		Less previous payment(s)	\$
5% RETAINAGE WITHHELD THIS APPLICATION	\$	AMOUNT DUE THIS APPLICATION:	\$
Liquidated Damages to Be Accrued	\$	Remaining Contract Balance	\$

ATTACH SCHEDULE OF VALUES AND ACCOMPANYING DOCUMENTATION TO THIS APPLICATION

CONTRACTOR'S CERTIFICATION: The undersigned CONTRACTOR certifies that: (1) all previous progress payments received from OWNER on account of Work done under the Contract referred to above have been applied to discharge in full all obligations of CONTRACTOR incurred in connection with Work covered by prior Applications for Payment numbered 1 through _____ inclusive; (2) title to all materials and equipment incorporated in said Work or otherwise listed in or covered by this Application for Payment will pass to OWNER at time of payment free and clear of all liens, claims, security interests and encumbrances (except such as covered by Bond acceptable to OWNER); (3) all amounts have been paid for work which previous payments were issued and received from Owner and that current payment is now due; (4) and CONTRACTOR agrees that all overruns as shown on the monthly estimate summary shall, in fact, be added to the revised contract and shall be incorporated into a future Change Order:

Contractor's Name:			
Contractor's Signature:		Date:	
Type Title:		<i>Shall be signed by an authorized representative of the Contractor.</i>	
Payment to the CONTRACTOR for the above AMOUNT DUE THIS APPLICATION is recommended by:			
Design Professional's Name:			
Signature:		Date:	
Payment to the CONTRACTOR for the above AMOUNT DUE THIS APPLICATION is recommended by:			
Owner's Project Manager Name:			
Signature:		Date:	

EXHIBIT E
CHANGE ORDER NO. _____
Water Quality Treatment Exfiltration Swales-S. Collier Blvd
Contract #2025-027

TO:	FROM: City of Marco Island 50 Bald Eagle Drive Marco Island, Florida 34145
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Project:

CITY COUNCIL CHANGE ORDER APPROVAL
(a) Agenda Item: N/A

Change Order No. Bid No. N/A	Construction Agreement Date:
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Change Order Description: This Change Order No. _____ serves to:

Original Agreement Amount
Sum of Previous Change Orders Amount
This Change Order No. _ Amount [Increase]

Revised Agreement Amount

Original Contract Time in calendar days
Adjusted number of calendar days due to previous change orders
This Change Order adjusted time is

REVISED CONTRACT TIME IN CALENDAR DAYS

Original Notice to Proceed Date
Substantial Completion date based on original contract time
Revised Substantial Completion Date Due To Change Order(s)

Your acceptance of this Change Order shall constitute a modification to our Agreement and will be performed subject to all the same terms and conditions as contained in said Agreement indicated above, as fully as if the same were repeated in this acceptance. The time and monetary adjustment to this Agreement shall constitute a full and final settlement of any and all claims arising out of or related to changes set forth herein including claims for schedule impacts, material/labor costs and delay costs.

City of Marco Island
Change Order No.

Authorized By: _____ Date: _____
Michael A. McNees, City Manager
City of Marco Island

EXHIBIT F
WORK CHANGE DIRECTIVE
No. ____
Water Quality Treatment Exfiltration Swales-S. Collier Blvd
Contract #2025-027

Date of Issuance:		Effective Date:
Project:	Owner: City of Marco Island	Owner's Contract No.:
Contractor:		Date Notice to Proceed Issued

You are directed to proceed promptly with the following change(s):

Item No.	Description

Attachments (list documents supporting change):

Purpose for Work Change Directive: .

Authorization for Work described herein to proceed on the basis of Cost of the Work due to:

Non-agreement on pricing of proposed change.

Necessity to expedite Work described herein prior to agreeing to changes on Contract Price and Contract Time.

Estimated change in Contract Price and Contract Times:

Contract Price \$	Contract Time ____days increase
-------------------	------------------------------------

Recommended for Approval by Engineer:	Date
Authorized for Owner by:	Date
Accepted for Contractor by:	Date
Approved by Funding Agency (if applicable):	Date:

EXHIBIT G
OWNER'S CONTINGENCY AUTHORIZATION
Water Quality Treatment Exfiltration Swales-S. Collier Blvd
Contract #2025-027

NO.: ____

PROJECT NAME: **Water Quality Treatment Exfiltration Swales-S. Collier Blvd** CONTRACT: **2025-027**

CONTRACTOR: _____

REQUESTED BY: _____, City of Marco Island

DATE: _____

Upon completion and execution of this Owner's Contingency Authorization by both parties, the Contractor shall proceed with the following additional work:

Description: _____

Purpose: _____

Attachments: _____

CONTINGENCY AMOUNT AUTHORIZED:

Original Contract Amount	\$
<i>Contract Contingency</i>	\$20,000.00
Contingency Authorization #____ (this authorization)	\$
<i>Contingency Remaining</i>	\$

It is understood and agreed that the acceptance of this modification by the CONTRACTOR constitutes an accord and satisfaction and represents an agreement for payment in full for all costs arising out of, or incidental to, the above-mentioned change.

Below is the signature for approval of the responsible parties with authorization to sign for the entities referenced above:

ACCEPTED:

REVIEWED:

By: _____

 [CONTRACTOR] Date

By: _____

 City of Marco Island Date

APPROVED:

APPROVED:

By: _____
 Guillermo Polanco
 Director, Finance
 City of Marco Island Date

By: _____
 Michael A. McNees
 City Manager
 City of Marco Island Date

EXHIBIT H
CERTIFICATE OF SUBSTANTIAL COMPLETION
Water Quality Treatment Exfiltration Swales-S. Collier Blvd
Contract #2025-027

Contract No.: 2025-027

Contract Date: _____

Project: *Water Quality Treatment Exfiltration Swales-S. Collier Blvd*

OWNER: City of Marco Island

CONTRACTOR: _____

This Certificate of Substantial completion applies to all Work under the Contract documents or to the following specified parts thereof:

To: City of Marco Island**OWNER**

And

To: _____

CONTRACTOR

The Work to which this Certificate applies has been inspected by authorized representatives of OWNER, CONTRACTOR AND DESIGN PROFESSIONAL, and that Work is hereby declared to be substantially complete in accordance with the contract documents on:

DATE OF SUBSTANTIAL COMPLETION

A tentative list of items to be completed or corrected is attached hereto. This list may not be all-inclusive, and the failure to include an item in it does not alter the responsibility of CONTRACTOR to complete all the Work in accordance with the Contract Documents. The items in the tentative list shall be completed or corrected by CONTRACTOR within _____ days of the above date of Substantial Completion.

The responsibilities between OWNER and CONTRACTOR for security, operation, safety, maintenance, heat, utilities, insurance and warranties shall be as follows:

RESPONSIBILITIES:

OWNER: _____

CONTRACTOR: _____

The following documents are attached to and made a part of this Certificate:

This certificate does not constitute an acceptance of Work not in accordance with the Contract Documents nor is it a release of CONTRACTOR'S obligation to complete the Work in accordance with the Contract Documents.

Executed by **DESIGN PROFESSIONAL** on _____, 20____.

Design Professional Authorized Signature _____

Design Professional Company Name _____

Name and Title _____

CONTRACTOR accepts this Certificate of Substantial Completion on _____, 20____.

Contractor Authorized Signature _____

Contractor Company Name _____

Name and Title _____

OWNER accepts this Certificate of Substantial Completion on _____, 20____.

Owner Authorized Signature _____

Name and Title _____

EXHIBIT I
GENERAL TERMS AND CONDITIONS
Water Quality Treatment Exfiltration Swales-S. Collier Blvd
ITB# 2025-027

1. INTENT OF CONTRACT DOCUMENTS.

1.1. It is the intent of the Contract Documents to describe a functionally complete project (or portion thereof) to be constructed in accordance with the Contract Documents. Any work, materials or equipment that may reasonably be inferred from the Contract Documents as being required to produce the intended result shall be supplied whether or not specifically called for. When words which 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. Reference to standard specifications, manuals or codes of any technical society, organization or association or to the laws or regulations of any governmental authority having jurisdiction over the Project, whether such reference be specific or by implication, shall mean the latest standard specification, manual, code, law or regulation in effect at the time the Work is performed, except as may be otherwise specifically stated herein.

1.2. If before or during the performance of the Work Contractor discovers a conflict, error or discrepancy in the Contract Documents, Contractor immediately shall report same to the Project Manager in writing and before proceeding with the Work affected thereby shall obtain a written interpretation or clarification from the Project Manager. Contractor shall take field measurements and verify field conditions and shall carefully compare such field measurements and conditions and other information known to Contractor with the Contract Documents before commencing any portion of the Work.

1.3. Drawings are intended to show general arrangements, design and extent of Work and are not intended to serve as shop drawings. Specifications are separated into divisions for convenience of reference only and shall not be interpreted as establishing divisions for the Work, trades, subcontracts, or extent of any part of the Work. In the event of a discrepancy between or among the drawings, specifications or other Contract Document provisions, Contractor shall be required to comply with the provision, which is the more restrictive or stringent requirement upon Contractor, as determined by the City. Unless otherwise specifically mentioned, all anchors, bolts, screws, fittings, fillers, hardware, accessories, trim and other parts required in connection with any portion of the Work to make a complete, serviceable, finished and first quality installation shall be furnished and installed as part of the Work, whether or not called for by the Contract Documents.

1.4. DEFINITIONS.

Addenda – Supplemental instructions and / or instruments issued by Owner which may be prior to the opening of the Bids.

Application for Payment – The form Contractor shall use to request payments and which may require supporting documentation.

Bid – The offer or proposal of the Bidder, including all Bidding Documents, submitted on the prescribed Bid Form, setting forth the prices for the Work to be performed.

Bidder – Any person or entity submitting a proposal for the Work described in the Bidding Documents.

Bidding Documents – All documents provided in the Invitation to Bid, including, but not limited to the following: Instructions to Bidders, Bid Form, Bid Bond, Sample Contract for Construction, all documentation accompanying Bid, post Bid documentation submitted, Qualifications Statement, General Conditions, Technical Conditions, Supplemental Conditions, Plans and Specifications, and any Addenda issued.

Claim – A written demand or assertion by Owner or Contractor seeking an adjustment of Contract Price, Contract Times, or both, or other relief with respect to the terms of the Contract Documents. A demand for money or services by a third party is not a Claim.

Change Order – A document recommended by Owner’s Representative, which is signed by Contractor and City Manager on behalf of the City and authorizes an addition, deletion or revision in the Work, or an adjustment in the Contract Price or the Contract Time, issued on or after the Effective Date of the Contract.

Contract – (also Contract for Construction or Agreement) – The written instrument memorializing the Contract between Owner and Contractor describing the Work to be performed, and the relationship between the parties.

Contract Documents – The Contract Documents consist of, but are not limited to the Drawings, Plans and Specifications, Project Contract, Bid Form, all Bidding documents, post Bid documentation, Qualifications Statement, Addenda, Notice of Award, Notice to Proceed, Certificates of Insurance, Payment and Performance Bonds, the General Conditions, Supplementary Conditions, Permits, any additional documents which are submitted relative to the Bid and all changes, amendments, modifications and supplements issued on or after the Effective Date of the Contract.

Contract Price – The total compensation payable by Owner to Contractor under the Contract Documents as stated in the Contract, for satisfactory completion of the Work.

Contract Time – The number of days allowed in the Contract for the completion of the Work.

Day – A calendar day of 24 hours measured from midnight to the next midnight.

Defective – Unsatisfactory, faulty or deficient, non-conforming with the standards of the Contract Documents, or failing to meet the requirements of any inspection, reference standard, test or approval referred to in the Contract Documents, or damaged prior to the recommendation for final payment by Owner’s Representative.

Drawings – The drawings, diagrams, illustrations and other data which show the character, extent and scope of the Work to be performed and which have been prepared by the Architect and/or Engineer for the Project and approved by Owner.

Effective Date – The date indicated in the Contract on which it becomes effective. If no such date is indicated, the date on which the Contract is signed and delivered by the last of the parties to sign and deliver.

Engineer – The individual or firm designated by Owner to be Owner’s Representative for engineering related matters during construction of the Project, if required.

Field Order – A written order issued by Owner’s Representative which orders minor changes in the Work but which does not involve a change in the Contract Price or the Contract Time.

GMP- Guaranteed Maximum Price. Per agreement, the maximum amount that the Contractor or Construction Manager will be allowed to charge for the complete performance of the Work.

Owner’s Representative – The individual designated by Owner to act as Owner’s Representative with respect to Contractor’s performance of the Work. Such individual shall have authority to transmit instructions, receive information, and make decisions with respect to the performance of the Work.

Project – The Work to be performed under the Contract Documents which may be the whole or a part as may be indicated in the Contract Documents.

Project Site – Lands or areas upon which the Work is to be performed, including rights-of-way and easements for access thereto, and all lands and any area which is designated for the use of Contractor in performance of the Work.

Project Manager – The individual designated by the Owner to be the Owner’s representative for the overall management of the project/ work.

Punch List – A list of items of Work compiled by inspection by the Architect and/or Engineer, and/or Owner's Representative, which are incomplete, deficient and/or inconsistent with the Contract Documents.

Purchase Requisition – The working document which describes the vendor, material or service to be procured the price of the product or service and other details that will, upon review and approval, authorized the creation of a purchase order.

Purchasing Department – The department within the Owner's organization responsible for the application of policy, ordinances or statutes in the acquisition of goods and Services.

Responsible Bidder – Any person or entity submitting a Bid who maintains a permanent place of business, meets the qualifications of the Bidding Documents, has adequate equipment and personnel to complete the Work within the established time limits, has adequate financial resources to meet current obligations plus the obligations required to perform the Work and who or which has not defaulted on a prior contract with Owner.

Responsive Bidder – Any person or entity submitting a Bid in a form which is true and complete and includes all required attachments and enclosures and is free from exclusions or special conditions.

Samples – Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.

Shop Drawings – All drawings, diagrams, illustrations, schedules and other data which are specifically prepared by or for Contractor to illustrate some portion of the Work and all illustrations, brochures, standard schedules, performance charts, instructions, diagrams and other information prepared by a Supplier and submitted to Owner by Contractor to illustrate material or equipment for some portion of the Work.

Specifications – Those portions of the Contract Documents consisting of written instructions and technical descriptions of materials, equipment, construction systems, standards and workmanship as applied to the Work and the administrative details applicable thereto.

Submittals – Documents or Shop Drawings reflecting how a particular aspect of the Work is to be fabricated and installed. Contractor's submittals include shop drawings, product data, samples, mock-ups, test results, warranties, maintenance agreements, project photographs, record documents, field measurement data, operating and maintenance manuals, reports, certifications and other types of information described in the specifications.

Substantial Completion – A level of completion in substantial compliance with the Contract Documents, as certified in writing by Owner's Representative and recommended by the Architect and/or Engineer, such that Owner or its designee can have beneficial use or occupy the Project and can use or operate the Project in all respects for its intended purpose. Substantial Completion shall be deemed to have been achieved when the work is available for the Owner's beneficial use and upon (a) the submission of a Certificate of Substantial Completion (in the standard AIA form) to Owner by the architect of record (as defined in Exhibit I, hereof, the "Architect"), (b) the issuance of a Temporary Certificate of Occupancy or Temporary Certificate of Use, as applicable, for any portion of the Project requiring said Certificates, (c) the issuance of all necessary approvals, permits and licenses for the operation of the Project and (d) the completion of all operational testing indicating the Project can be used for the purposes and to the capacity required by the Contract Documents. In the event the Work includes more than one Phase, Owner, at its discretion, may set Substantial Completion dates for each Phase and may impose provisions for liquidated damages for each Phase, including Final Completion.

Superintendent or Resident Superintendent – The executive representative for the Contractor present on the Site as the supervisor during execution of the Work, authorized to receive and fulfill instructions from Owner and the Architect and/or Engineer and who is capable of supervising Owner Representative.

Supplementary Conditions – That part of the Contract Documents which amends or supplements the Bidding Documents.

Total Base Bid – The sum of all the unit prices multiplied by the quantities, as provided in the Bid Form.

Underground Facilities – All pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels or other such facilities or attachments, and any encasements containing such facilities which have been installed underground to furnish any of the following utility services or materials, including but not limited to: electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, sewage, and drainage removal, traffic or other control systems or water.

Work (Also referred to as the “Project”) – The entire completed construction or the various separately identifiable parts thereof required to be furnished under the Contract Documents. Work is the result of performing services, furnishing labor and furnishing and incorporating materials and equipment into the construction, all as required by the Contract Documents.

Work Change Directive - A written directive to Contractor, substantially in the form of Exhibit “F” hereto, issued on or after the Effective Date of the Agreement and signed by City and recommended by the City’s Representative ordering an addition, deletion or revision in the Work, or responding to differing or unforeseen physical conditions under which the Work is to be performed or to any emergency circumstances. A Work Directive Change may not change the Contract Price or the Contract Time, but is evidence that the parties expect that the change directed or documented by a Work Directive Change will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Time.

2. INVESTIGATION AND UTILITIES.

2.1. Contractor shall have the sole responsibility of satisfying itself concerning the nature and location of the Work and the general and local conditions, and particularly, but without limitation, with respect to the following: those affecting transportation, access, disposal, handling and storage of materials; availability and quality of labor; water and electric power; availability and condition of roads; work area; living facilities; climatic conditions and seasons; physical conditions at the work-site and the project area as a whole; topography and ground surface conditions; nature and quantity of the surface materials to be encountered; subsurface conditions; equipment and facilities needed preliminary to and during performance of the Work; and all other costs associated with such performance. The failure of Contractor to acquaint itself with any applicable conditions shall not relieve Contractor from any of its responsibilities to perform under the Contract Documents, nor shall it be considered the basis for any claim for additional time or compensation.

2.2. Contractor shall locate all existing roadways, railways, drainage facilities and utility services above, upon, or under the Project Site, said roadways, railways, drainage facilities and utilities being referred to in this Sub-Section 2.2 as the “Utilities”. Contractor shall contact owners of all Utilities to determine the necessity for relocating or temporarily interrupting any Utilities during the construction of the Project. Contractor shall schedule and coordinate its Work around any such relocation or temporary service interruption. Contractor shall be responsible for properly shoring, supporting and protecting all Utilities at all times during the course of the Work. Contractor is responsible for coordinating all other utility work so as to not interfere with the prosecution of the Work (except those utilities to be coordinated by Owner as described in other places of the contract documents).

3. SCHEDULE.

3.1. Contractor, after receipt of the Notice of Award and within 10 days following a request by the Project Manager, shall prepare and submit for review and approval, a progress schedule for the Project (herein “Progress Schedule”). The Progress Schedule shall relate to all Work required by the Contract Documents, and shall utilize the Critical Path method of scheduling, or a Gantt Chart (Bar Chart), and shall provide for expeditious and practicable execution of the Work within the Contract Time. The Progress Schedule shall indicate the dates for starting and completing the various stages of the Work.

3.2. The Progress Schedule shall be updated monthly by Contractor. All monthly updates to the Progress Schedule shall be subject to the Project Manager’s review and approval. Contractor shall submit the updates to the Progress Schedule with its monthly Applications for Payment noted below. The Project Manager’s review and approval of the submitted Progress Schedule updates shall be a condition precedent to Owner’s obligation to pay Contractor.

4. PROGRESS PAYMENTS.

4.1. Prior to submitting its first monthly Application for Payment, Contractor shall submit to Project Manager, for their review and approval, a schedule of values based upon the Contract Price, listing the major elements of the Work and the dollar value for each element. After its approval by the Project Manager, this schedule of values shall be used as the basis for Contractor's monthly Applications for Payment. This schedule shall be updated and submitted each month to the Project Manager along with a completed copy of the Application for Payment form signed by Contractor's authorized representative and attached to the Agreement as Exhibit D.

4.2. Prior to submitting its first monthly Application for Payment, Contractor shall submit to the Project Manager a complete list of all its proposed subcontractors and material-men, showing the work and materials involved and the dollar amount of each proposed subcontract and purchase order. The first Application for Payment shall be submitted no earlier than thirty (30) days after the Commencement Date.

4.3. If payment is requested on the basis of materials and equipment not incorporated into the Project, but delivered and suitably stored at the site or at another location agreed to by Owner in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice or other documentation warranting that Owner has received the materials and equipment free and clear of all liens, charges, security interests and encumbrances, together with evidence that the materials and equipment are covered by appropriate property insurance and other arrangements to protect Owner's interest therein, all of which shall be subject to Owner's satisfaction.

4.4 Contractor shall submit two (2) copies of its monthly Application for Payment to the Project Manager. Upon receipt by Owner, Owner shall mark the application indicating the date of receipt.

Consistent with Section 218.735, Florida Statutes, the due date for payment for the purchase of construction services by the City is determined as follows:

If an agent must approve the payment request or invoice before the payment request or invoice is submitted to the City, payment is due 25 business days after the date on which the payment request or invoice is stamped as received.

If an agent need not approve the payment request or invoice submitted by the Contractor, payment is due 20 business days after the date on which the payment request or invoice is stamped as received.

Contractor shall submit payment requests to the City representative. Contractor's submission of a payment request or invoice to the City representative shall be stamped as received and shall commence the time periods for payment or rejection of a payment request or invoice as provided in Section 218.735, Florida Statutes.

If a payment request or invoice does not meet the Contract requirements, the City must reject the payment request or invoice within 20 business days after the date on which the payment request or invoice is stamped as received. The rejection must be written and must specify the deficiency and the action necessary to make the payment request or invoice proper.

If a payment request or an invoice is rejected and the Contractor submits a payment request or invoice that corrects the deficiency, the corrected payment request or invoice must be paid or rejected on the later of:

Ten business days after the date the corrected payment request or invoice is stamped as received; or

If the City is required by ordinance, charter, or other law to approve or reject the corrected payment request or invoice, the first business day after the next regularly scheduled meeting of the City held after the corrected payment request or invoice is stamped as received.

If a dispute between the City and the Contractor cannot be resolved by the procedure in Section 12, the dispute must be resolved in accordance with the dispute resolution procedure prescribed in the construction Contract or in any applicable ordinance. In the absence of a prescribed procedure, the dispute must be resolved by the procedure specified in Section 218.76(2), Florida Statutes.

If a City disputes a portion of a payment request or an invoice, once a pay application is submitted in acceptable format, the undisputed portion shall be paid timely.

When the Contractor receives payment from the City for labor, services, or materials furnished by subcontractors and suppliers hired by the Contractor, the Contractor must remit payment due to those subcontractors and suppliers within 10 days after the Contractor's receipt of payment. If a subcontractor receives payment from a Contractor for labor, services, or materials furnished by subcontractors and suppliers hired by the subcontractor, the subcontractor must remit payment due to those subcontractors and suppliers within 7 days after the subcontractor's receipt of payment. This does not prohibit a Contractor or subcontractor from disputing, pursuant to the terms of the relevant Contract, all or any portion of a payment alleged to be due to another party if the Contractor or subcontractor notifies the party whose payment is disputed, in writing, of the amount in dispute and the actions required to cure the dispute. The Contractor or subcontractor must pay all undisputed amounts due within the time limits imposed by this section.

4.4.1 PUNCH LIST.

The City and Contractor shall develop a single punch list of items required to render complete, satisfactory, and acceptable the construction services purchased by the City. The City and the Contractor will develop and review the list within a reasonable time of the Contractor's written request for development of the punch list.

For construction projects having an estimated cost of less than \$10 million, within 30 calendar days after reaching substantial completion of the construction services purchased as defined in the Contract, or, if not defined in the Contract, upon reaching beneficial occupancy or use; or

For construction projects having an estimated cost of \$10 million or more, within 30 calendar days, or, if extended by Contract, up to 60 calendar days after reaching substantial completion of the construction services purchased as defined in the Contract, or, if not defined in the Contract, upon reaching beneficial occupancy or use.

The punch list will be delivered to the Contractor within 5 days after the list of items has been developed and reviewed in accordance with the time periods set forth above.

If the Work relates to the purchase of construction services on more than one building or structure, or involves a multi-phased Project, the punch list shall be developed for each building, structure, or phase of the Project within the time limitations provided above.

The final Contract completion date shall be at least 30 days after the delivery of the list of items. If the list is not provided to the Contractor by the agreed upon date for delivery of the list, the Contract time for completion will be extended by the number of days the City exceeded the delivery date. Damages may not be assessed against a Contractor for failing to complete a Project within the time required by the Contract, unless the Contractor failed to complete the Project within the Contract period as extended under this paragraph.

The failure to include any corrective work or pending items not yet completed on the list does not alter the responsibility of the Contractor to complete all the Work pursuant to the Contract.

Upon completion of all items on the punch list, the Contractor may submit a payment request for all remaining retainage withheld by the City pursuant to this section. If a good faith dispute exists as to whether one or more items identified on the list have been completed pursuant to the Contract, the City may continue to withhold up to 150 percent of the total costs to complete such items.

All items that require correction under the Contract and that are identified after the preparation and delivery of the list remain the obligation of the Contractor as defined by the Contract.

Warranty items or items not included in the list of items may not affect the final payment of retainage as provided in this section or as provided in the Contract between the Contractor and its subcontractors and suppliers.

Retainage may not be held by the City or the Contractor to secure payment of insurance premiums under a consolidated insurance program or series of insurance policies issued to the City or the Contractor for a Project or group of projects, and the final payment of retainage as provided in this section may not be delayed pending a final audit by the City's or Contractor's insurance provider.

If the City fails to comply with its responsibilities to develop the list required herein within the time limitations provided, the Contractor may submit a payment request for all remaining retainage withheld by the City pursuant to this section; and payment of any remaining undisputed Contract amount, less any amount withheld pursuant to the Contract for incomplete or uncorrected work, must be paid within 20 business days after receipt of a proper invoice or payment request. If the City has provided written notice to the Contractor specifying the failure of the Contractor to meet Contract requirements in the development of the list of items to be completed, the City need not pay or process any payment request for retainage if the Contractor has, in whole or in part, failed to cooperate with the City in the development of the list or to perform its contractual responsibilities, if any, with regard to the development of the list or if there is a good faith dispute regarding whether an amount is owed.

The City's representative will, within ten (10) days after receipt of each Application for Payment, and based on the recommendation of the Architect or Engineer, either indicate in writing a recommendation of payment to the City, or return the Application to Contractor indicating in writing the reasons for refusing to recommend payment. In the latter case, Contractor may make corrections, if necessary, and resubmit the Application. City will, after receipt of each Application for Payment and recommendation from the City's representative, either make payment or return the Application to Contractor, indicating in writing the City's reasons for refusing to make payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.

If required by law, the first application for payment will include a charge for Indemnification of the City by the Contractor.

Beginning with the second Application for Payment, each Application shall include an affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied in full to discharge Contractor's obligations associated with prior Applications for Payment.

4.5. Owner shall retain five percent (5%) of the gross amount of each monthly payment request or five percent (5%) of the portion thereof approved by the Project Manager for payment, whichever is less. Such sum shall be accumulated and not released to Contractor until final payment is due unless otherwise agreed to by Owner. The Project Manager shall have the discretion to establish, in writing, a schedule to periodically reduce the percentage of cumulative retainage held throughout the course of the project schedule.

4.6. Monthly payments to Contractor shall in no way imply approval or acceptance of Contractor's work.

4.7. Each Application for Payment shall be accompanied by a Release and Affidavit, in the form attached as Agreement Exhibit C, showing that all materials, labor, equipment and other bills associated with that portion of the Work payment is being requested on have been paid in full. Owner shall not be required to make payment until and unless these affidavits are furnished by Contractor.

4.8. Contractor agrees and understands that funding limitations exist and that the expenditure of funds must be spread over the duration of the Project at regular intervals based on the Contract Amount and Progress Schedule. Accordingly, prior to submitting its first monthly Application for Payment, Contractor shall prepare and submit for Project Manager's review and approval, a detailed Project Funding Schedule, which shall be updated as necessary and approved by Owner to reflect approved adjustments to the Contract Amount and Contract Time. No voluntary acceleration or early completion of the Work shall modify the time of payments to Contractor as set forth in the approved Project Funding Schedule.

4.9. Prior to release of final payment and final retainage, Contractor's Representative and the Project Manager shall jointly complete the Final Payment Checklist, a representative copy of which is enclosed in the agreement and labeled Agreement Exhibit G.

5. PAYMENTS WITHHELD.

5.1. The Project Manager may decline to approve any Application for Payment, or portions thereof, because of subsequently discovered evidence or subsequent inspections that reveal non-compliance with the contract documents. The Project Manager may nullify the whole or any part of any approval for payment previously issued and Owner may withhold any payments otherwise due Contractor under this Agreement or any other agreement between Owner and Contractor, to such extent as may be necessary in Owner's opinion to protect it from loss because of:

(a) defective Work not remedied; (b) third party claims filed or reasonable evidence indicating probable filing of such claims; (c) failure of Contractor to make payment properly to subcontractors or for labor, materials or equipment; (d) reasonable doubt that the Work can be completed for the unpaid balance of the Contract Amount; (e) reasonable indication that the Work will not be completed within the Contract Time; (f) unsatisfactory prosecution of the Work by Contractor; or (g) any other material breach of the Contract Documents.

5.2. If any conditions described in 5.1. are not remedied or removed, Owner may, after three (3) days written notice, rectify the same at Contractor's expense. Owner also may offset against any sums due Contractor the amount of any liquidated or non-liquidated obligations of Contractor to Owner, whether relating to or arising out of this Agreement or any other agreement between Contractor and Owner.

6. FINAL PAYMENT.

6.1. Owner shall make final payment to Contractor within thirty (30) calendar days after the Work is finally inspected and accepted by Project Manager in accordance with Section 21.1 herein, provided that Contractor first, and as an explicit condition precedent to the accrual of Contractor's right to final payment, shall have furnished Owner with a properly executed and notarized copy of the Release and Affidavit attached as Agreement Exhibit C, as well as, a duly executed copy of the Surety's consent to final payment and such other documentation that may be required by the Contract Documents and Owner.

6.2. Contractor's acceptance of final payment shall constitute a full waiver of any and all claims by Contractor against Owner arising out of this Agreement or otherwise relating to the Project, except those previously made in writing and identified by Contractor as unsettled at the time of the final Application for Payment. Neither the acceptance of the Work nor payment by Owner shall be deemed to be a waiver of Owner's right to enforce any obligations of Contractor hereunder or to the recovery of damages for defective Work not discovered by the Design Professional or Project Manager at the time of final inspection.

7. SUBMITTALS AND SUBSTITUTIONS.

7.1. Contractor shall carefully examine the Contract Documents for all requirements for approval of materials to be submitted such as shop drawings, data, test results, schedules and samples. Contractor shall submit all such materials at its own expense and in such form as required by the Contract Documents in sufficient time to prevent any delay in the delivery of such materials and the installation thereof.

7.2. Whenever materials or equipment are specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular supplier, the naming of the item is intended to establish the type, function and quality required. Unless the name is followed by words indicating that no substitution is permitted, materials or equipment of other suppliers may be accepted by Owner if sufficient information is submitted by Contractor to allow Owner to determine that the material or equipment proposed is equivalent or equal to that named. Requests for review of substitute items of material and equipment will not be accepted by Owner from anyone other than Contractor and all such requests must be submitted by Contractor to Project Manager within thirty (30) calendar days after Notice of Award is received by Contractor.

7.3. If Contractor wishes to furnish or use a substitute item of material or equipment, contractor shall make application to the Project Manager for acceptance thereof, certifying that the proposed substitute shall adequately perform the functions and achieve the results called for by the general design, be similar and of equal substance to that specified and be suited to the same use as that specified. The application shall state that the evaluation and acceptance of the proposed substitute will not prejudice Contractor's achievement of substantial completion on time, whether or not acceptance of the substitute for use in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for the Project) to adapt the design to the proposed substitute and whether or not incorporation or use by the substitute

in connection with the Work is subject to payment of any license fee or royalty. All variations of the proposed substitute from that specified will be identified in the application and available maintenance, repair and replacement service shall be indicated. The application also shall contain an itemized estimate of all costs that will result directly or indirectly from acceptance of such substitute, including costs for redesign and claims of other contractors affected by the resulting change, all of which shall be considered by the Project Manager in evaluating the proposed substitute. The Project Manager may require Contractor to furnish at Contractor's expense additional data about the proposed substitute.

7.4. If a specific means, method, technique, sequence or procedure of construction is indicated in or required by the Contract Documents, Contractor may furnish or utilize a substitute means, method, sequence, technique or procedure of construction acceptable to the Project Manager, if Contractor submits sufficient information to allow the Project Manager to determine that the substitute proposed is equivalent to that indicated or required by the Contract Documents. The procedures for submission to and review by the Project Manager shall be the same as those provided herein for substitute materials and equipment.

7.5. The Project Manager shall be allowed a reasonable time within which to evaluate each proposed substitute and, if need be, to consult with the Design Professional. No substitute will be ordered, installed or utilized without the Project Manager's prior written acceptance which shall be evidenced by a Change Order, a Work Directive Change, a Field Order or an approved Shop Drawing. Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute. The Project Manager will record time required by the Project Manager and the Project Manager's consultants in evaluating substitutions proposed by Contractor and making changes in the Contract Documents occasioned thereby. Whether or not Owner accepts a proposed substitute, Contractor shall reimburse Owner for the charges of the Design Professional and the Design Professional's consultants for evaluating each proposed substitute.

8. DAILY REPORTS, AS-BUILT, AND MEETINGS.

8.1. Unless waived in writing by Owner, Contractor shall complete and submit to Project Manager on a weekly basis a daily log of Contractor's work for the preceding week in a format approved by the Project Manager. The daily log shall document all activities of Contractor at the Project Site including, but not limited to, the following:

- 8.1.1. Weather conditions showing the high and low temperatures during work hours, the amount of precipitation received on the Project Site, and any other weather conditions which adversely affect the Work;
- 8.1.2. Soil conditions which adversely affect the Work;
- 8.1.3. The hours of operation by Contractor's and Sub-Contractor's personnel;
- 8.1.4. The number of Contractor's and Sub-Contractor's personnel present and working at the Project Site, by subcontract and trade;
- 8.1.5. All equipment present at the Project Site, description of equipment use and designation of time equipment was used (specifically indicating any down time);
- 8.1.6. Description of Work being performed at the Project Site;
- 8.1.7. Any unusual or special occurrences at the Project Site;
- 8.1.8. Materials received at the Project Site;
- 8.1.9. A list of all visitors to the Project
- 8.1.10. Any problems that might impact either the cost or quality of the Work or the time of performance.

The daily log shall not constitute nor take the place of any notice required to be given by Contractor to Owner pursuant to the Contract Documents.

8.2. Contractor shall maintain in a safe place at the Project Site one record copy of the Contract Documents, including, but not limited to, all drawings, specifications, addenda, amendments, Change Orders, Work Directive Changes and Field Orders, as well as all written interpretations and clarifications issued by the Design Professional, in good order and annotated to show all changes made during construction. The annotated drawings shall be continuously updated by Contractor throughout the prosecution of the Work to accurately reflect all field changes that are made to adapt the Work to field conditions, changes resulting from Change Orders, Work Directive Changes and Field Orders, and all concealed and buried installations of piping, conduit and utility services. All buried and concealed items, both inside and outside the Project Site, shall be accurately

located on the annotated drawings as to depth and in relationship to not less than two (2) permanent features (e.g. interior or exterior wall faces). The annotated drawings shall be clean and all changes, corrections and dimensions shall be given in a neat and legible manner in a contrasting color. The "As-Built" record documents, together with all approved samples and a counterpart of all approved shop drawings shall be available to the Project Manager or Design Professional for reference. Upon completion of the Work and as a condition precedent to Contractor's entitlement to final payment, these "As-Built" record documents, samples and shop drawings shall be delivered to Project Manager by Contractor for Owner.

8.3. Contractor shall keep all records and supporting documentation which concern or relate to the Work hereunder for a minimum of five (5) years from the date of termination of this Agreement or the date the Project is completed, whichever is later. Owner, or any duly authorized agents or representatives of Owner, shall have the right to audit, inspect and copy all such records and documentation as often as they deem necessary during the period of this Agreement and during the five (5) year period noted above; provided, however, such activity shall be conducted only during normal business hours.

9. CONTRACT TIME AND TIME EXTENSIONS.

9.1. Contractor shall diligently pursue the completion of the Work and coordinate the Work being done on the Project by its subcontractors and material-men, as well as coordinating its Work with all work of others at the Project Site, so that its Work or the work of others shall not be delayed or impaired by any act or omission by Contractor. Contractor shall be solely responsible for all construction means, methods, techniques, sequences, and procedures, as well as coordination of all portions of the Work under the Contract Documents, and the coordination of Owner's suppliers and contractors .

9.2. Should Contractor be obstructed or delayed in the prosecution of or completion of the Work as a result of unforeseeable causes beyond the control of Contractor, and not due to its fault or neglect, including but not restricted to acts of God or of the public enemy, acts of government, fires, floods, epidemics, quarantine regulation, strikes or lockouts, Contractor shall notify Owner in writing within forty-eight (48) hours after the commencement of such delay, stating the cause or causes thereof, or be deemed to have waived any right which Contractor may have had to request a time extension.

9.3. No interruption, interference, inefficiency, suspension or delay in the commencement or progress of the Work from any cause whatever, including those for which Owner may be responsible, in whole or in part, shall relieve Contractor of its duty to perform or give rise to any right to damages or additional compensation from Owner. Contractor expressly acknowledges and agrees that it shall receive no damages for delay. Contractor's sole remedy, if any, against Owner will be the right to seek an extension to the Contract Time; provided, however, the granting of any such time extension shall not be a condition precedent to the aforementioned "No Damage For Delay" provision. This paragraph shall expressly apply to claims for early completion, as well as to claims based on late completion.

9.4 All time limits stated in the Contract Documents are of the essence. NO CLAIM FOR DAMAGES OR ANY CLAIM OTHER THAN FOR AN EXTENSION OF TIME SHALL BE MADE OR ASSERTED AGAINST THE CITY BY REASON OF ANY DELAYS, DISRUPTION, INTERFERENCE, HINDRANCE (collectively "delay"). Contractor shall not be entitled to an increase in the Contract Price or payment or compensation of any kind from City for direct, indirect, consequential, impact or other costs, expenses or damages including but not limited to costs of acceleration or inefficiency, arising because of delay from any cause whatsoever, whether such delay 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 that extent specifically provided above.

Contractor shall not be liable nor have their right to proceed be restricted for any failure to perform its obligations where such failure arises out of Acts of Nature / God (including fire, flood, earthquake, storm, hurricane or other natural disaster), war, invasion, act of public enemies, hostilities (whether war is declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation, terrorist activities, riot, nationalization, government actions, tariffs, blockades, embargos, transportation delays not reasonably foreseeable, labor disputes, labor or material shortages, strikes, lockouts, disease outbreaks, epidemics, pandemics, quarantine restrictions, interruption or failure of power sources, or any other cause beyond the

actual control of Contractor. To the extent these conditions may occur and impact the Project, there shall be an equitable adjustment to the Contract Sum and Time.

An "Inclement Weather day" for which a time extension may be granted is defined as a work day on which the Contractor is unable to work at least 50% of the normal work day *on pre-determined controlling work items due to adverse weather conditions at the work site or unavoidable adverse work site soil conditions directly caused by adverse weather.*

Once the Work has incurred four Inclement Weather Days in any one calendar month, the City will grant time extensions, on a day for day basis, starting with the fifth Inclement Weather Day for each Inclement Weather Day incurred until the end of the month. In addition, if the Contractor must make major repairs to work damaged by weather, the damage is not attributable to the Contractor's failure to perform or neglect, and the need to perform the repairs prevented the Contractor from working at least 50% of the normal workday on pre-determined controlling work items, then additional time will be granted on a day for day basis for the amount of time reasonably needed to perform the repairs and return to the controlling work items.

No additional compensation will be made for delays caused by the effects of inclement weather.

NO RECOVERY FOR EARLY COMPLETION. If the Contractor submits a schedule or expresses an intention to complete the Work earlier than any required milestone or completion date, the City shall not be liable to the Contractor for any costs incurred because of delay or hindrance should the Contractor be unable to complete the Work before such milestone or completion date. The duties, obligations and warranties of the City to the Contractor shall be consistent with and applicable only to the completion of the work and completion dates set forth in these General Conditions.

The Contract Time may only be changed by a Change Order or a Written Amendment. Any claim for extension of time shall be made in writing to the City's Representative not more than five (5) days after the detection or beginning of the occurrence of the event giving rise to the delay and must state the general nature of the claim; otherwise, the claim shall be waived. In the case of a continuing delay only one claim is necessary. Contractor shall provide an estimate of the probable effect of such delay on the progress of the Work.

10. CHANGES IN THE WORK.

10.1. Owner shall have the right at any time during the progress of the Work to increase or decrease the Work. Promptly after being notified of a change, Contractor shall submit an itemized estimate of any cost or time increases or savings it foresees as a result of the change. Except in an emergency endangering life or property, or as expressly set forth herein, no addition or changes to the Work shall be made except upon written order of Owner, and Owner shall not be liable to Contractor for any increased compensation without such written order. No officer, employee or agent of Owner is authorized to direct any extra or changed work orally.

10.2. A Change Order, in the form attached as Exhibit E to this Agreement, shall be issued and executed promptly after an agreement is reached between Contractor and Owner concerning the requested changes. Contractor shall promptly perform changes authorized by duly executed Change Orders. The Contract Amount and Contract Time shall be adjusted in the Change Order in the manner as Owner and Contractor shall mutually agree.

10.3. If Owner and Contractor are unable to agree on a Change Order for the requested change, Contractor shall, nevertheless, promptly perform the change as directed by Owner in a written Work Directive Change. In that event, the Contract Amount and Contract Time shall be adjusted as directed by Owner. If Contractor disagrees with Owner's adjustment determination, Contractor must make a claim pursuant to Section 12 of these General Conditions or else be deemed to have waived any claim on this matter it might otherwise have had.

10.4. In the event a requested change results in an increase to the Contract Amount, the amount of the increase shall be limited to Contractor's reasonable direct labor and material costs and reasonable actual equipment costs as a result of the change (including allowance for labor burden costs) plus a maximum ten

percent (10%) markup for all overhead and profit. In the event such change Work is performed by a Subcontractor, a maximum ten percent (10%) markup for all overhead and profit for all Subcontractors' and sub-subcontractors' direct labor and material costs and actual equipment costs shall be permitted, with a maximum five percent (5%) markup thereon by Contractor for all of its overhead and profit, for a total maximum markup of fifteen percent (15%). All compensation due Contractor and any Subcontractor or sub-subcontractor for field and home office overhead is included in the markups noted above. Contractor's and Sub-Contractor's bond costs associated with any change order shall be included in the overhead and profit expenses and shall not be paid as a separate line item.

10.5 Owner shall have the right to conduct an audit of Contractor's books and records to verify the accuracy of Contractor's claim with respect to Contractor's costs associated with any Change Order.

10.6 The Project Manager shall have authority to order minor changes in the Work not involving an adjustment to the Contract Amount or an extension to the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes may be effected by Field Order . Such changes shall be binding on Contractor.

11. DIFFERING SITE CONDITIONS.

11.1 During the progress of the work, if subsurface or latent physical conditions are encountered at the site differing materially from those indicated in the contract or if unknown physical conditions of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in the work provided for in the contract, are encountered at the site, the party discovering such conditions shall promptly, but in no event more than 48 hours after the discovery, notify the other party in writing of the specific differing conditions before the site is disturbed and before the affected work is performed.

11.2 Upon written notification, the engineer will investigate the conditions, and if it is determined that the conditions materially differ and cause an increase or decrease in the cost or time required for the performance of any work under the contract, an adjustment, excluding anticipated profits, will be made and the contract modified in writing accordingly. The engineer will notify Contractor of the determination whether or not an adjustment of the contract is warranted.

11.3 No contract adjustment which results in a benefit to Contractor will be allowed unless Contractor has provided the required written notice.

11.4 No contract adjustments will be allowed under this clause for any effects caused on unchanged work.

11.5 Contractor has made, or caused to be made, examinations, investigations, tests, or studies as necessary to determine surface and subsurface conditions at or on the site. Contractor acknowledges that City does not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Contract Documents with respect to subsurface conditions or underground facilities at or contiguous to the site. Contractor has obtained and carefully studied (or assumes responsibility for having done so) all such additional supplementary examinations, investigations, explorations, tests, studies and data concerning conditions (surface, subsurface and underground facilities) at or contiguous to the site or otherwise which may affect cost, progress, performance or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto. Contractor does not consider that any additional examinations, investigations, explorations, tests, studies or data are necessary for the performance and furnishing of the Work at the Contract Price, within the Contract Times and in accordance with the other terms and conditions of the Contract Documents.

Information shown on the Drawings and/or indicated in the Contract Documents as to the location of existing utilities and subsurface conditions has been prepared from the most reliable data available to the City. This information is not guaranteed, however, and it shall be the Contractor's responsibility to determine the location, character and depth of existing utilities. Contractor shall assist the utility companies, by every means possible to determine said locations and the locations of recent additions to the systems not shown. Extreme caution shall be exercised to eliminate any possibility of any damage to utilities resulting from Contractor's activities. The location of all utilities shall be verified and the City notified of any conflict which might occur. The City

expressly disclaims any warranty as to the underground conditions to be encountered. Bidders should not rely on locations, condition, or quantity of subsurface structures or conditions depicted on drawings, as the locations, condition, and quantities are approximations.

12. CLAIMS AND DISPUTES.

12.1 A Claim is a demand or assertion by one of the parties seeking an adjustment or interpretation of the terms of the Contract Documents, payment of money, extension of time or other relief with respect to the terms of the Contract Documents. The term "Claim" also includes other disputes and matters in question between Owner and Contractor arising out of or relating to the Contract Documents. The responsibility to substantiate a Claim shall rest with the party making the Claim.

12.2 Any Claim for an increase or decrease in the Contract Price shall be based on written notice of intent to claim delivered to the City's Representative promptly (but in no event later than three (3) days after the first occurrence of the event giving rise to the amount of the Claim). Contractor shall deliver to the City's Representative a good faith estimate of the cost and time impacts caused by the Claim causing event with supporting data to be delivered within seven (7) days of the first occurrence of the event giving rise to the Claim. Every month, until such time as the Claim is resolved, Contractor shall deliver to the City's Representative a written update informing the City of all additional cost and time impacts resulting from the Claim causing event. Within 7 calendar days of the conclusion of the Claim causing event, but no later than the date of Substantial Completion, Contractor shall deliver to the City's Representative a full and complete written claim identifying all costs and time impacts that the Contractor believes should be paid due to the Claim causing event and shall include full and final substantiation for all price and time adjustments. Under no circumstances will the City be liable for consequential damages, and/or ripple effect damages/impact damages incurred on the Project or elsewhere in Contractor's business.

The City's Representative, based on the recommendation of the Architect or Engineer, will review the Claim and provide a recommendation to the City Manager within seven (7) working days of receipt of the final Claim or written request from Contractor. The City Manager or the City Council, as applicable, will review the recommendation and make a decision on the request. The City Manager's/City Council's decision will be final. The City Manager's decision will be final unless within 7 calendar days of the date of the City Manager's decision the Contractor provides the City's Representative with written notice expressly stating that the Contractor disputes the decision and intends to pursue the matter via litigation. Failure by Contractor to strictly comply with the provisions of this article will result in a waiver of the Claim. No resolution of a Claim for adjustment in the Contract Price shall be effective until approved by the City in writing.

12.3. Contractor shall proceed diligently with its performance as directed by Owner, regardless of any pending Claim, action, suit or administrative proceeding, unless otherwise agreed to by Owner in writing. Owner shall continue to make payments in accordance with the Contract Documents during the pendency of any Claim.

13. OTHER WORK.

13.1. Owner may perform other work related to the Project at the site by Owner's own forces, have other work performed by utility owners or let other direct contracts. If the fact that such other work is to be performed is not noted in the Contract Documents, written notice thereof will be given to Contractor prior to starting any such other work. If Contractor believes that such performance will involve additional expense to Contractor or require additional time, Contractor shall send written notice of that fact to Owner and Design Professional within forty-eight (48) hours of being notified of the other work. If Contractor fails to send the above-required forty-eight-(48) hour notice, Contractor will be deemed to have waived any rights it otherwise may have had to seek an extension to the Contract Time or adjustment to the Contract Amount.

13.2 Contractor shall afford each utility Owner and other contractor who is a party to such a direct contract (or Owner, if Owner is performing the additional work with Owner's employees) proper and safe access to the site and a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such work and shall properly connect and coordinate its Work with theirs. Contractor shall do all cutting, fitting and patching of the Work that may be required to make its several parts come together properly and integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating or otherwise altering their work and will only cut or alter their work with the written consent of the Project Manager and the

others whose work will be affected. The duties and responsibilities of Contractor under this paragraph are for the benefit of such utility owners and other Contractors to the extent that there are comparable provisions for the benefit of Contractor in said direct contracts between Owner and such utility owners and other contractors.

13.3. If any part of Contractor's Work depends for proper execution or results upon the work of any other contractor or utility owner (or Owner), Contractor shall inspect and promptly report to Project Manager in writing any delays, defects or deficiencies in such work that render it unavailable or unsuitable for such proper execution and results. Contractor's failure to report will constitute an acceptance of the other work as fit and proper for integration with Contractor's Work.

14. INDEMNIFICATION, INSURANCE AND SAFETY, GOVERNMENTAL COMPLIANCE AND HAZARDOUS MATERIALS

14.1 Indemnity

14.1.1 To the maximum extent permitted by Florida law, Contractor shall indemnify and hold harmless the Owner, and its respective officers and employees from any and all liabilities, damages, losses and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentional misconduct of Contractor or anyone employed or utilized by Contractor in the performance of this contract and any Work Order issued pursuant thereto. In addition to the duty to indemnify and hold harmless the Owner as required by this paragraph, Contractor shall have the duty to defend the Owner and its respective officers and employees from all claims, damages, losses or costs, including, but not limited to, reasonable attorneys' fees to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of Contractor or anyone employed or utilized by Contractor in the performance of this contract and any Work Order issued pursuant thereto. The duty to defend under this Paragraph is independent and separate from the duty to indemnify, and the duty to defend exists regardless of any ultimate liability of Contractor, Owner, and any indemnified party. The duty to defend arises immediately upon presentation of a claim by any party and written notice of such claim being provided to Contractor. Contractor's obligation to indemnify and defend under this Paragraph will survive the expiration or earlier termination of this contract and any Work Order issued pursuant thereto until it is determined by final judgment that any action against the Owner or an indemnified party for any matter indemnified hereunder is fully and finally barred by the applicable statute of limitations.

14.1.2 In claims against any person or entity indemnified under this Article by an employee of contractor, anyone directly or indirectly employed by Contractor, or anyone for whose acts Contractor may be liable, the indemnification obligations shall not be limited to any limitation on amount or types of damages, compensation or benefits payable by or for Contractor under workers' compensation acts, disability benefits acts or other employee benefit acts.

14.1.3 The obligations of Contractor under this Article 9 shall not extend to the liability of the Owner's architect, its agents, or employees, arising out of (a) the preparation or approval of maps, drawings, opinions, reports, surveys, Change Orders, designs, or specifications, or (b) the giving of or the failure to give direction or instructions by the architect, its agents or employees, provided such giving or failure to give is the sole cause of the injury or damage.

13.1.4 Contractor shall procure contractual liability insurance to cover its obligation under this article.

14.2 Insurance

14.2.1 During the entire term of this contract and any extensions thereof, Contractor shall obtain and maintain at Contractor's expense, the insurance coverages required by the terms of the contract and Exhibit B in accordance with the requirements and limits set forth therein. Such insurance shall be kept in full force and effect until acceptance of the Work by the Owner, except as otherwise required hereby. By obtaining the insurance required by this Article, Contractor shall in no manner lessen, diminish or affect Contractor's obligations under this contract and any Work Order issued pursuant thereto. Such insurance shall be maintained with insurance companies both acceptable to the Owner and licensed to transact business and issue insurance in the State of Florida.

14.2.2 Before proceeding with any Work under the appropriately issued Work Order, Contractor shall furnish to the Owner, a Certificate(s) of Insurance, and such endorsements thereto as requested by Owner, and

otherwise in form satisfactory to Owner, as necessary to certify and evidence the existence of the required insurance policies, coverages, terms, limits and conditions required hereby. A certificate that contains wording that in any way reduces or lessens the insurer's obligations or that does not fulfill any of the requirements hereof shall not be acceptable, and will be returned for resubmission by Contractor's insurer.

14.2.3 If Contractor fails or neglects to maintain the required insurance, or provide a satisfactory certificate thereof, or should any insurance be terminated or cancelled (prior to satisfactory replacement insurance being obtained) or should any insurance carrier provide notice to Owner of cancellation or termination (prior to satisfactory replacement insurance being obtained), then in any such case Owner shall have the right, but not the duty, at Contractor's expense, to obtain replacement insurance coverage from other insurance companies, and deduct from any sums that may be due or become due to Contractor, any and all premiums paid by Owner for and on account of such insurance. Contractor shall be liable for any and all costs and damages incurred by Owner as a result of Contractor's failure or neglect to maintain the minimum insurance limits as required hereunder.

14.2.4 On each Project the "indemnitee" shall be listed as additional insured on the insurance policies required hereunder, except for Contractor's worker's compensation policy. Contractor's insurance policies shall be endorsed to provide that the coverage shall be primary and noncontributory over any other insurance maintained by Owner. Contractor's obligation to provide insurance pursuant to this article shall be independent of all other obligations under this contract.

14.2.5 In addition to the insurance required by the contract, Contractor shall provide any insurance it deems necessary to protect its interest in the Work and any insurance required to be maintained by Contractor under applicable law.

14.3 Safety, Governmental Compliance and Hazardous Materials

14.3.1 Contractor shall be responsible for safety of its operations and its employees and shall take all reasonable safety precautions with respect to its Work. Contractor in addition to its own standards shall comply with all safety policies and procedures initiated by Contractor for the Project, including Contractor's policy regarding drugs, alcohol and controlled substances, and shall comply with all applicable laws, ordinances, rules, regulations and orders of any public authority for the safety of persons or property, including, but not limited to, the Federal Occupational Safety and Health Act (OSHA). Contractor shall immediately notify Owner of any injury to any of Contractor's employees. Contractor shall require its personnel to attend any safety meetings Owner might conduct and direct Contractor to attend.

14.3.2 Contractor agrees that in performing its Work, it will not create, use or dispose of any hazardous chemicals or substances in an unlawful or hazardous manner and shall be solely responsible for the lawful, proper and safe handling, storage and removal of all hazardous wastes, chemicals and substances which are introduced to the site, or removed from the site, by Contractor's operations. The term "hazardous wastes, chemicals or substances" shall mean those materials and substances prohibited, proscribed, or the use of which is controlled by any agency of the federal government or the applicable state or local agency having jurisdiction of such matters. In the event Contractor encounters material reasonably believed to be hazardous wastes, chemicals or substances, Contractor shall immediately stop work in the area affected and report such condition to Owner in writing. Contractor shall comply with all federal, state and local regulations dealing with the use, storage or disposal of all hazardous wastes, chemicals and substances. Contractor shall be responsible for any and all claims and damages resulting from its use, handling, storage, removal and disposal of such hazardous wastes, chemicals or substances from the Project, and will indemnify, defend and hold Owner harmless from any and all liability associated with such use, handling, storage, removal and disposal including all associated attorney's fees and costs and costs of all cleanup operations wherever and whenever required by any governmental authority or Owner.

15. COMPLIANCE WITH LAWS.

15.1. Contractor agrees to comply, at its own expense, with all federal, state and local laws, codes, statutes, ordinances, rules, regulations and requirements applicable to the Project, including but not limited to those dealing with taxation, worker's compensation, equal employment and safety (including, but not limited to, the

Trench Safety Act, Chapter 553, Florida Statutes). If Contractor observes that the Contract Documents are at variance therewith, it shall promptly notify Project Manager in writing.

15.2. Contractors providing service to the City are required to comply with all state and federal employment laws. This includes, but is not limited to, laws resulting from the Immigration and Reform and Control Act of 1986, wherein all employers are required to verify the identity and employment eligibility of all employees. The Department of Homeland Security, U.S. Citizenship and Immigration Services require employees and employers to complete Form I-9 and the employer must examine evidence of identity and employment eligibility within three business days of the date employment begins. Non compliant contractors will be subject to contract sanctions, up to and including contract termination.

15.3. Contractor shall not engage in or commit any discriminatory practice against any person based on race, age, religion, color, gender, sexual orientation, national origin, marital status, physical or mental disability, political affiliation or any other factor which cannot be lawfully used as a basis for service delivery.

16. CLEANUP AND PROTECTIONS.

16.1. Contractor agrees to keep the Project Site clean at all times of debris, rubbish and waste materials arising out of the Work. At the completion of the Work, Contractor shall remove all debris, rubbish and waste materials from and about the Project Site, as well as all tools, appliances, construction equipment and machinery and surplus materials, and shall leave the Project Site clean and ready for occupancy by Owner.

16.2. Any existing surface or subsurface improvements, including, but not limited to, pavements, curbs, sidewalks, pipes, utilities, footings, structures, trees and shrubbery, not indicated in the Contract Documents to be removed or altered, shall be protected by Contractor from damage during the prosecution of the Work. Any such improvements so damaged shall be restored by Contractor to the condition equal to that existing at the time of Contractor's commencement of the Work.

17. ASSIGNMENT.

17.1. Contractor shall not assign this Agreement or any part thereof, without the prior consent in writing of Owner. Any attempt to assign or otherwise transfer this Agreement, or any part herein, without Owner's consent, shall be void. If Contractor does, with approval, assign this Agreement or any part thereof, it shall require that its assignee be bound to it and to assume toward Contractor all of the obligations and responsibilities that Contractor has assumed toward Owner.

18. PERMITS, LICENSES AND TAXES.

18.1. Pursuant to Section 218.80, F.S., Owner will pay for all City permits and fees, including license fees, permit fees, impact fees or inspection fees applicable to the work through reimbursement of those fees. Contractor is responsible for acquiring and paying for all permits. Owner requires the Contractor to submit a copy of the permit payment receipt with the first pay request and itemize that amount on the pay request. Reimbursement will be for the exact amount of the permits and fees with no additional mark-up by the contractor.

18.2. All permits, fees and licenses necessary for the prosecution of the Work which are not issued by the City shall be acquired and paid for by Contractor.

18.3. Contractor shall pay all sales, consumer, use and other similar taxes associated with the Work or portions thereof, which are applicable during the performance of the Work.

19. TERMINATION FOR DEFAULT.

19.1. Contractor shall be considered in material default of the Agreement and such default shall be considered cause for Owner to terminate the Agreement, in whole or in part, as further set forth in this Section, if Contractor: (1) fails to begin the Work under the Contract Documents within the time specified herein; or (2) fails to properly and timely perform the Work as directed by the Project Manager or as provided for in the approved Progress Schedule; or (3) performs the Work unsuitably or neglects or refuses to remove materials or to correct or replace such Work as may be rejected as unacceptable or unsuitable; or (4) discontinues the prosecution of the Work; or (5) fails to resume Work which has been suspended within a reasonable time after being notified to do so; or (6) becomes insolvent or is declared bankrupt, or commits any act of bankruptcy; or (7) allows any final judgment

to stand against it unsatisfied for more than ten (10) days; or (8) makes an assignment for the benefit of creditors; or (9) fails to obey any applicable codes, laws, ordinances, rules or regulations with respect to the Work; or (10) materially breaches any other provision of the Contract Documents.

19.2. Owner shall notify Contractor in writing of Contractor's default(s). If Owner determines that Contractor has not remedied and cured the default(s) within seven (7) calendar days following receipt by Contractor of said written notice, then Owner, at its option, without releasing or waiving its rights and remedies against Contractor's sureties and without prejudice to any other right or remedy it may be entitled to hereunder or by law, may terminate Contractor's right to proceed under the Agreement, in whole or in part, and take possession of all or any portion of the Work and any materials, tools, equipment, and appliances of Contractor, take assignments of any of Contractor's subcontracts and purchase orders, and complete all or any portion of Contractor's Work by whatever means, method or agency which Owner, in its sole discretion, may choose.

19.3 If Owner deems any of the foregoing remedies necessary, Contractor agrees that it shall not be entitled to receive any further payments hereunder until after the Project is completed. All moneys expended and all of the costs, losses, damages and extra expenses, including all management, administrative and other overhead and other direct and indirect expenses (including Design Professional and attorneys' fees) or damages incurred by Owner incident to such completion, shall be deducted from the Contract Amount, and if such expenditures exceed the unpaid balance of the Contract Amount, Contractor agrees to pay promptly to Owner, on demand, the full amount of such excess, including costs of collection, attorneys' fees (including appeals) and interest thereon at the maximum legal rate of interest until paid. If the unpaid balance of the Contract Amount exceeds all such costs, expenditures and damages incurred by Owner to complete the Work, such excess shall be paid to Contractor. The amount to be paid to Contractor or Owner, as the case may be, shall be approved by the Project Manager, upon application, and this obligation for payment shall survive termination of the Agreement.

19.4. The liability of Contractor hereunder shall extend to and include the full amount of any and all sums paid, expenses and losses incurred, damages sustained, and obligations assumed by Owner in good faith under the belief that such payments or assumptions were necessary or required, in completing the Work and providing labor, materials, equipment, supplies, and other items therefor or re-letting the Work, and in settlement, discharge or compromise of any claims, demands, suits, and judgments pertaining to or arising out of the Work hereunder.

19.5. If, after notice of termination of Contractor's right to proceed pursuant to this Section, it is determined for any reason that Contractor was not in default, or that its default was excusable, or that Owner is not entitled to the remedies against Contractor provided herein, then Contractor's remedies against Owner shall be the same as and limited to those afforded Contractor under Section 20 below.

20. TERMINATION FOR CONVENIENCE AND RIGHT OF SUSPENSION.

20.1. Owner shall have the right to terminate this Agreement without cause upon seven (7) calendar days written notice to Contractor. In the event of such termination for convenience, Contractor's recovery against Owner shall be limited to:

1. For Owner supplied material- A payment of five (5) percent of the invoice value for all material supplied by Owner that has not yet been installed by the Contractor, where the Contractor was responsible for vendor selection, shop drawing preparation, receiving and securing the material at a location designated by the Owner, and the Contractor assisted the Owner in the purchase order process.
2. For Contractor supplied material- A payment of seven and one half (7.5) percent of the invoice value for all material purchased by the Contractor and delivered to the project site and not used or installed by the contractor.
3. For Construction Bonds- Actual bond cost (based on vendor invoice) for the payment and performance bonds.
4. Mobilization and Demobilization-
 - A. Mobilization/ Demobilization included as a bid item- A payment of ten (10) percent of the mobilization cost balance not already paid. A payment of one hundred (100) percent of the demobilization shall be paid only after the project has surpassed the fifty (50) percent mark based on the CPM or bar chart schedule. Prior to the fifty percent marked based on the schedule, the Contractor shall be paid twenty (20) percent of

the demobilization item.

B. Mobilization/ Demobilization not included as a bid item- The Owner shall pay the contractor for the actual documented (labor, material and equipment) cost incurred by the Contractor.

5. That portion of the contract Amount earned through the date of termination including, but not limited to, documented costs for labor, materials, equipment, supplies and storage of same through the date of termination, together with any retainage withheld.

Contractor shall not be entitled to any other or further recover against Owner, including, but not limited to, damages or any anticipated profit on portion of the Work not performed.

20.2. Owner shall have the right to suspend all or any portions of the Work upon giving Contractor not less than two (2) calendar days' prior written notice of such suspension. If all or any portion of the Work is so suspended, Contractor's sole and exclusive remedy shall be to seek an extension of time to its schedule in accordance with the procedures set forth in the Contract Documents. In no event shall Contractor be entitled to any additional compensation or damages. Provided, however, if the ordered suspension exceeds six (6) months, Contractor shall have the right to terminate the Agreement with respect to that portion of the Work which is subject to the ordered suspension.

21. COMPLETION.

21.1 When the entire Work (or any portion thereof designated in writing by Owner) is ready for its intended use, Contractor shall notify Project Manager in writing that the entire Work (or such designated portion) is substantially complete and request that Project Manager issue a Certificate of Completion (substantial or final Certificate of Completion). Within a reasonable time thereafter, Owner, Contractor and Design Professional shall make an inspection of the Work (or designated portion thereof) to determine the status of completion. If Design Professional and Project Manager do not consider the Work (or designated portion) substantially complete, Project Manager shall notify Contractor in writing giving the reasons therefor. If Design Professional and Project Manager consider the Work (or designated portion) substantially complete, Project Manager shall prepare and deliver to Contractor a Certificate of Completion (substantial or final Certificate of Completion) which shall fix the date of Substantial Completion for the entire Work (or designated portion thereof) and include a tentative punch-list of items to be completed or corrected by Contractor before final payment. Owner shall have the right to exclude Contractor from the Work and Project Site (or designated portion thereof) after the date of Substantial Completion, but Owner shall allow Contractor reasonable access to complete or correct items on the tentative punch-list.

21.2. Upon receipt of written certification by Contractor that the Work is completed in accordance with the Contract Documents and is ready for final inspection and acceptance and upon receipt of a final Application for Payment, Project Manager and Design Professional will make such inspection and, if they find the Work acceptable and fully performed under the Contract Documents shall promptly issue a final Certificate for Payment, recommending that, on the basis of their observations and inspections, and Contractor's certification that the Work has been completed in accordance with the terms and conditions of the Contract Documents, that the entire balance found to be due Contractor is due and payable. Neither the final payment nor the retainage shall become due and payable until Contractor submits:

- (1) The Release and Affidavit in the form attached as Exhibit C.
- (2) Consent of surety to final payment.
- (3) If required by Owner, other data establishing payment or satisfaction of all obligations, such as receipts, releases and waivers of liens, arising out of the Contract Documents, to the extent and in such form as may be designated by Owner.

Owner reserves the right to inspect the Work and make an independent determination as to the Work's acceptability, even though the Design Professional may have issued its recommendations. Unless and until Owner is completely satisfied, neither the final payment nor the retainage shall become due and payable.

22. WARRANTY.

22.1 Contractor shall obtain and assign to Owner all express warranties given to Contractor or any subcontractors by any material-men supplying materials, equipment or fixtures to be incorporated into the Project. Contractor warrants to Owner that any materials and equipment furnished under the Contract Documents shall be new unless otherwise specified, and that all Work shall be of good quality, free from all

defects and in conformance with the Contract Documents. Contractor further warrants to Owner that all materials and equipment furnished under the Contract Documents shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable manufacturers, fabricators, suppliers or processors except as otherwise provided for in the Contract Documents. If, within one (1) year after final completion, any Work is found to be defective or not in conformance with the Contract Documents, Contractor shall correct it promptly after receipt of written notice from Owner. Contractor shall also be responsible for and pay for replacement or repair of adjacent materials or Work which may be damaged as a result of such replacement or repair. These warranties are in addition to those implied warranties to which Owner is entitled as a matter of law.

22.2 No later than 30 days prior to expiration of the warranty, the Project Manager, or any other representative of Owner, shall conduct an inspection of the warranted work to verify compliance with the requirements of the Agreement. Contractor's Representative shall be present at the time of inspection and shall take remedial actions to correct any deficiencies noted in the inspection. Failure of Contractor to correct the cited deficiencies shall be grounds for the Owner to disqualify Contractor from future City bid opportunities.

23. TESTS AND INSPECTIONS.

23.1. Owner, Design Professional, their respective representatives, agents and employees, and governmental agencies with jurisdiction over the Project shall have access at all times to the Work, whether the Work is being performed on or off of the Project Site, for their observation, inspection and testing. Contractor shall provide proper, safe conditions for such access. Contractor shall provide Project Manager with timely notice of readiness of the Work for all required inspections, tests or approvals.

23.2. If the Contract Documents or any codes, laws, ordinances, rules or regulations of any public authority having jurisdiction over the Project requires any portion of the Work to be specifically inspected, tested or approved, Contractor shall assume full responsibility therefore, pay all costs in connection therewith and furnish Project Manager the required certificates of inspection, testing or approval. All inspections, tests or approvals shall be performed in a manner and by organizations acceptable to the Project Manager.

23.3. If any Work that is to be inspected, tested or approved is covered without written concurrence from the Project Manager, such work must, if requested by Project Manager, be uncovered for observation. Such uncovering shall be at Contractor's expense unless Contractor has given Project Manager timely notice of Contractor's intention to cover the same and Project Manager has not acted with reasonable promptness to respond to such notice. If any Work is covered contrary to written directions from Project Manager, such Work must, if requested by Project Manager, be uncovered for Project Manager's observation and be replaced at Contractor's sole expense.

23.4. Owner shall charge to Contractor and may deduct from any payments due Contractor all engineering and inspection expenses incurred by Owner in connection with any overtime work. Such overtime work consisting of any work during the construction period beyond the regular eight (8) hour day and for any work performed on Saturday, Sunday or holidays.

23.5. Neither observations nor other actions by the Project Manager or Design Professional nor inspections, tests or approvals by others shall relieve Contractor from Contractor's obligations to perform the Work in accordance with the Contract Documents.

24. DEFECTIVE WORK.

24.1. Work not conforming to the requirements of the Contract Documents or any warranties made or assigned by Contractor to Owner shall be deemed defective Work. If required by Project Manager, Contractor shall as directed, either correct all defective Work, whether or not fabricated, installed or completed, or if the defective Work has been rejected by Project Manager, remove it from the site and replace it with non-defective Work. Contractor shall bear all direct, indirect and consequential costs of such correction or removal (including, but not limited to fees and charges of engineers, architects, attorneys and other professionals) made necessary thereby, and shall hold Owner harmless for same.

24.2. If the Project Manager considers it necessary or advisable that covered Work be observed by Design

Professional or inspected or tested by others, Contractor, at Project Manager's request, shall uncover, expose or otherwise make available for observation, inspection or tests as Project Manager may require, that portion of the Work in question, furnishing all necessary labor, material and equipment. If it is found that such Work is defective, Contractor shall bear all direct, indirect and consequential costs of such uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction (including, but not limited to, fees and charges of engineers, architects, attorneys and other professionals), and Owner shall be entitled to an appropriate decrease in the Contract Amount. If, however, such Work is not found to be defective, Contractor shall be allowed an increase in the Contract Amount and/or an extension to the Contract Time, directly attributable to such uncovering, exposure, observation, inspection, testing and reconstruction.

24.3. If any portion of the Work is defective, or if Contractor fails to supply sufficient skilled workers, suitable materials or equipment or fails to finish or perform the Work in such a way that the completed Work will conform to the Contract Documents, Project Manager may order Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of Project Manager to stop the Work shall not give rise to any duty on the part of Owner or Project Manager to exercise this right for the benefit of Contractor or any other party.

24.4. Should Owner determine, at its sole opinion, it is in Owner's best interest to accept defective Work, Owner may do so. Contractor shall bear all direct, indirect and consequential costs attributable to Owner's evaluation of and determination to accept defective Work. If such determination is rendered prior to final payment, a Change Order shall be executed evidencing such acceptance of such defective Work, incorporating the necessary revisions in the Contract Documents and reflecting an appropriate decrease in the Contract Amount. If Owner accepts such defective Work after final payment, Contractor shall promptly pay Owner an appropriate amount to adequately compensate Owner for its acceptance of the defective Work.

24.5 If Contractor fails, within a reasonable time after the written notice from Project Manager, to correct defective Work or to remove and replace rejected defective Work as required by Project Manager or Owner, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any of the provisions of the Contract Documents, Owner may, after seven (7) days written notice to Contractor, correct and remedy any such deficiency. To the extent necessary to complete corrective and remedial action, Owner may exclude Contractor from any or all of the Project Site, take possession of all or any part of the Work, and suspend Contractor's services related thereto, take possession of Contractor's tools, appliances, construction equipment and machinery at the Project Site and incorporate in the Work all materials and equipment stored at the Project Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Design Professional and their respective representatives, agents, and employees such access to the Project Site as may be necessary to enable Owner to exercise the rights and remedies under this paragraph. All direct, indirect and consequential costs of Owner in exercising such rights and remedies shall be charged against Contractor, and a Change Order shall be issued, incorporating the necessary revisions to the Contract Documents, including an appropriate decrease to the Contract Amount. Such direct, indirect and consequential costs shall include, but not be limited to, fees and charges of engineers, architects, attorneys and other professionals, all court costs and all costs of repair and replacement of work of others destroyed or damaged by correction, removal or replacement of Contractor's defective Work. Contractor shall not be allowed an extension of the Contract Time because of any delay in performance of the Work attributable to the exercise by Owner of Owner's rights and remedies hereunder.

25. SUPERVISION AND SUPERINTENDENTS.

25.1 Contractor shall plan, organize, supervise, schedule, monitor, direct and control 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 the Contract Documents. Contractor shall be responsible to see that the finished Work complies accurately with the Contract Documents. Contractor shall keep on the Work at all times during its progress a competent resident superintendent, who shall not be replaced without prior written notice to Project Manager except under extraordinary circumstances. The superintendent shall be employed by Contractor and be Contractor's representative at the Project Site and shall have authority to act on behalf of Contractor. All communications given to the superintendent shall be as binding as if given to Contractor. Owner shall have the right to direct Contractor to remove and replace its Project superintendent, with or without cause.

25.2 Contractor shall have a competent superintendent/project manager on the project at all times prior to substantial completion whenever contractor's work crews, or work crews of other parties authorized by the Project Manager are engaged in any activity whatsoever associated with the Project. Should Contractor fail to comply with the above condition, the Project Manager shall, at his discretion, deduct from Contractor's monthly pay estimate, sufficient moneys to account for Owner's loss of adequate project supervision.

26. PROTECTION OF WORK.

26.1. Contractor shall fully protect the Work from loss or damage and shall bear the cost of any such loss or damage until final payment has been made. If Contractor or any one for whom Contractor is legally liable for is responsible for any loss or damage to the Work, or other work or materials of Owner or Owner's separate contractors, Contractor shall be charged with the same, and any moneys necessary to replace such loss or damage shall be deducted from any amounts due Contractor.

26.2. Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent property to stresses or pressures that will endanger it.

26.3. Contractor shall not disturb any benchmark established by Owner or Design Professional with respect to the Project. If Contractor, or its subcontractors, agents or anyone for whom Contractor is legally liable, disturbs Owner or Design Professional's benchmarks, Contractor shall immediately notify Project Manager and Design Professional. Owner or Design Professional shall re-establish the benchmarks and Contractor shall be liable for all costs incurred by Owner associated therewith.

27. EMERGENCIES.

27.1 In the event of an emergency affecting the safety or protection of persons or the Work or property at the Project Site or adjacent thereto, Contractor, without special instruction or authorization from Owner or Design Professional is obligated to act to prevent threatened damage, injury or loss. Contractor shall give Project Manager written notice within forty-eight (48) hours after the occurrence of the emergency, if Contractor believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby. If the Project Manager determines that a change in the Contract Documents is required because of the action taken in response to an emergency, a Change Order shall be issued to document the consequences of the changes or variations. If Contractor fails to provide the forty-eight- (48) hour written notice noted above, Contractor shall be deemed to have waived any right it otherwise may have had to seek an adjustment to the Contract Amount or an extension to the Contract Time.

28. USE OF PREMISES.

28.1. Contractor shall maintain all construction equipment, the storage of materials and equipment and the operations of workers to the Project Site and land and areas identified in and permitted by the Contract Documents and other lands and areas permitted by law, rights of way, permits and easements, and shall not unreasonably encumber the Project Site with construction equipment or other material or equipment. Contractor shall assume full responsibility for any damage to any such land or area, or to Owner or occupant thereof, or any land or areas contiguous thereto, resulting from the performance of the Work.

29. SAFETY.

29.1. Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:

29.1.1. All employees on or about the Project Site and other persons and/or organizations who may be affected thereby;

29.1.2. All the Work and materials and equipment to be incorporated therein, whether in storage on or off the Project Site; and

29.1.3. Other property on Project Site or adjacent thereto, including trees, shrubs, walks, pavements, roadways, structures, utilities and any underground structures or improvements not designated for removal, relocation or

replacement in the Contract Documents.

29.2. Contractor shall comply with all applicable codes, laws, ordinances, rules and regulations of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss. Contractor shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify owners of adjacent property and of underground structures and improvements and utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation or replacement of their property. Contractor's duties and responsibilities for the safety and protection of the Work shall continue until such time as the Work is completed and final acceptance of same by Owner has occurred.

29.3. Contractor shall designate a responsible representative 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 Owner.

30. PROJECT MEETINGS.

Prior to the commencement of Work, Contractor shall attend a pre-construction conference with the Project Manager, Design Professional and others as appropriate to discuss the Progress Schedule, 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. During the prosecution of the Work, Contractor shall attend any and all meetings convened by the Project Manager with respect to the Project, when directed to do so by Project Manager or Design Professional. Contractor shall have its subcontractors and suppliers attend all such meetings (including the pre-construction conference) as may be directed by the Project Manager.

EXHIBIT J
FINAL PAYMENT CHECKLIST
Water Quality Treatment Exfiltration Swales-S. Collier Blvd
Contract #2025-027

Contract No.: 2025-027

Date: _____,

Contractor: _____

The following items have been secured by the _____ for the Project known as *Water Quality Treatment Exfiltration Swales-S. Collier Blvd* and have been reviewed and found to comply with the requirements of the Contract Documents.

Original Contract Amount: _____ Final Contract Amount: _____

Commencement Date: _____

Substantial Completion Time: _____ Calendar Days.

Final Completion Time: _____ Calendar Days.

YES	NO	
		1. All Punch List items completed on: _____
		2. Warranties and Guarantees assigned to the City (attach to this form).
		3. Effective date of General one year warranty from Contractor is: _____
		4. 2 copies of Operation and Maintenance manuals for equipment and system submitted (list manuals in attachment to this form).
		5. Record drawings obtained and dated: _____
		6. City personnel trained on system and equipment operation.
		7. Certificate of Occupancy No.: _____ issued on _____ (attach to this form)
		8. Certificate of Substantial Completion issued on: _____
		9. Final Payment Application and Affidavits received from Contractor on: _____
		10. Consent of Surety received on: _____
		11. Operating Department personnel notified project is in operating phase.
		12. Other: _____

If any of the above are not applicable, indicate by N/A. If NO is checked for any of the above, attach explanation.

Acknowledgments

By Contractor: _____ (Company Name)

_____ (Signature)

_____ (Typed Name & Title)

By Owner:

_____ (Department Name)

_____ (Signature)

_____ (Name & Title)

EXHIBIT K
PERMITS
Water Quality Treatment Exfiltration Swales-S. Collier Blvd
Contract #2025-2027

The procurement (and payment for) of all applicable permits is the responsibility of the Contractor.

Costs for permits issued by the City will be reimbursed. The Contractor shall include a line item for City Permits in the first pay request and attach a copy of the permit receipt. No additional mark-up of that fee is to be included.

EXHIBIT L
TECHNICAL SPECIFICATIONS
Water Quality Treatment Exfiltration Swales-S. Collier Blvd
Contract #2025-027

Technical Specifications will be posted to:

www.Demandstar.com