

CITY OF FORT LAUDERDALE
CONTRACT

BID NO. 12242-493 River Oaks Preserve P11419

DESCRIPTION

Continental Construction USA, LLC

CONTRACTOR

\$1,523,086

AMOUNT

January 7th, 2020

COMMISSION APPROVAL DATE

CITY OF FORT LAUDERDALE
CONSTRUCTION AGREEMENT

THIS AGREEMENT made and entered into this 7th day of January 2020, by and between the City of Fort Lauderdale, a Florida municipal corporation (City) and Continental Construction USA, LLC, a Florida limited liability company (Contractor), (parties);

WHEREAS, the State of Florida Department of Environmental Protection (DEP) and the City entered into Agreement No. NF019, dated May 10, 2017, to provide federal financial assistance for the River Oaks Preserve Project; and

WHEREAS, the City desires to retain a contractor for the Project as expressed in its Invitation to Bid No. 12242-493, Project Number 11419, which was opened on October 4, 2019; and

WHEREAS, the Contractor has expressed its willingness and capability to perform the necessary work to accomplish the Project;

NOW, THEREFORE, the City and the Contractor, in consideration of the mutual covenants and conditions contained herein and for other good and valuable consideration, the receipt and sufficiency is hereby acknowledged, agree as follows:

ARTICLE 1 – DEFINITIONS

Whenever used in this Agreement or in other Contract Documents, the following terms have the meanings indicated which are applicable to both the singular and plural forms:

- 1.1 Agreement – This written Agreement between the City and the Contractor covering the work to be performed including other Contract Documents that are attached to or incorporated in the Agreement.
- 1.2 Application for Payment – The form accepted by the City which is to be used by the Contractor in requesting progress or final payment and which is to include such supporting documentation as is required by the Contract Documents.
- 1.3 Approve – The word approve is defined to mean review of the material, equipment or methods for general compliance with design concepts and with the information given in the Contract Documents. It does not imply a responsibility on the part of the City to verify in every detail conformance with plans and specifications.
- 1.4 Bid – The offer or Bid of the Contractor submitted on the prescribed form setting forth the total prices for the Work to be performed.
- 1.5 Bid Documents – This Agreement, advertisement for Invitation to Bids, the Instructions to Bidders, the Bid Form (with supplemental affidavits and agreements), the Contract Forms, General Conditions, the Supplementary Conditions, the Specifications, and the Plans, which documents all become an integral part of the Contract Documents.
- 1.6 Certificate of Substantial Completion - Certificate provided by the City certifying that all Work, excluding the punch list items, has been completed, inspected, and accepted by the City.

- 1.7 Change Order - A change order is defined as a written order to a contractor approved by the City, authorizing a revision of an underlying agreement between the City and a contractor that is directly related to the original scope of work or an adjustment in the original contract price or the contract time directly related to the original scope of work, issued on or after the effective date of the contract.
- 1.8 City – The City of Fort Lauderdale, Florida, including but not limited to its employees, agents, officials, representatives, contractors, subcontractors, volunteers, successors and assigns, with whom the Contractor has entered into the Agreement and for whom the Work is to be provided.
- 1.9 Contract Documents – The Contract Documents shall consist of this Agreement, Exhibits to this Agreement, Public Construction Bond, Performance Bond, Payment Bond and Certificates of Insurance, Notice of Award and Notice to Proceed, General Conditions as amended by the Special Conditions, Technical Specifications, Plans/Drawings, Addenda, Bid Form and supplement Affidavits and Agreements, all applicable provisions of State and Federal Law and any modification, including Change Orders or written amendments duly delivered after execution of Agreement, Invitation to Bid, Instructions to Bidders and Bid Bond, Contractor's response to the City's Invitation to Bid, Schedule of Completion, Schedule of Values, all amendments, modifications and supplements, change orders and work directive changes issued on or after the Effective Date of the Agreement, as well as any additional documents that are required to be submitted under the Agreement.

Permits on file with the City and or those permits to be obtained shall be considered directive in nature and will be considered a part of this Agreement. A copy of all permits shall be given to the City for inclusion in the Contract Documents. Terms of permits shall be met prior to acceptance of the Work and release of the final payment.

- 1.10 Contract Price – The monies payable to the Contractor by the City under the Contract Documents and in accordance with the line item unit prices listed in the Bid.
- 1.11 Contract Time – The number of calendar days stated in the Agreement for the completion of the Work. The dates on which the work shall be started and shall be completed as stated in the Notice to Proceed.
- 1.12 Contractor – The person, firm, company, or corporation with whom the City has entered into the Agreement, including but not limited to its employees, agents, representatives, contractors, subcontractors, their subcontractors and their other successors and assigns.
- 1.13 Day – A calendar day of twenty-four (24) hours ending at midnight.
- 1.14 Defective – An adjective which when modifying the word "Work" refers to work that is unsatisfactory, faulty, or deficient, or does not conform to the Contract Documents or does not meet the requirements of any inspection, test or approval referred to in the Contract Documents, or has been damaged prior to the Project Manager's recommendation of final payment.

- 1.15 Effective Date of the Agreement – The effective date of the agreement shall be the date the City Commission approves the work. The contractor shall provide all required payment and performance bonds and insurances to the City within ten (10) calendar days following the City Commission approval. Upon verification of all bonds and insurances, the City will issue a notice to proceed (NTP) to the Contractor. Contract time will commence on the date when the Notice to Proceed is issued. The Contractor shall commence the work immediately upon receipt of the Notice to Proceed. Failure of the contractor to proceed with the work will constitute non-performance of the Contractor and would be ground for termination of the contract per ARTICLE 17 of the Agreement.
- 1.16 Final Completion Date – The date the Work is completed, including completion of the final punch list, and delivered along with those items specified in the Contract Documents and is accepted by the City.
- 1.17 Hazardous Materials (HAZMAT) - Any solid, liquid, or gaseous material that is toxic, flammable, radioactive, corrosive, chemically reactive, or unstable upon prolonged storage in quantities that could pose a threat to life, property, or the environment defined in Section 101(14) of Comprehensive Environmental Response, Compensation and Liability Act of 1980 and in 40 CFR 300.6. Also defined by 49 CFR 171.8 as a substance or material designated by the Secretary of Transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce and which has been so designated.
- 1.18 Hazardous Substance - As defined by Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act; any substance designated pursuant to Section 311(b) (2) (A) of the Clean Water Act; any element, compound, mixture, solution or substance designated pursuant to Section 102 identified under or listed pursuant to Section 3001 of the Solid Waste Disposal Act {but not including any waste listed under Section 307[a] of the Clean Water Act}; any hazardous air pollutant listed under Section 112 of the Clean Air Act; and any imminently hazardous chemical substance or mixture pursuant to Section 7 of the Toxic Substances Control Act. The term does not include petroleum, including crude oil or any fraction thereof, which is not otherwise specifically listed or designated as a hazardous substance in the first sentence of this paragraph, and the term does not include natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas).
- 1.19 Hazardous Waste - Those solid wastes designated by OSHA in accordance with 40 CFR 261 due to the properties of ignitability, corrosivity, reactivity, or toxicity. Any material that is subject to the Hazardous Waste Manifest requirements of the EPA specified in 40 CFR Part 262.
- 1.20 Holidays - Those designated non-work days as established by the City Commission of the City of Fort Lauderdale.
- 1.21 Inspection – The term “inspection” and the act of inspecting as used in this Agreement is defined to mean the examination of construction to ensure that it conforms to the design concept expressed in the plans and specifications. This term shall not be construed to mean supervision, superintending and/or overseeing.

- 1.22 Notice of Award - The written notice by City to the Contractor stating that upon compliance by the Contractor with the conditions precedent enumerated therein, within the time specified that the City will sign and deliver this Agreement.
- 1.23 Notice to Proceed – A written notice given by the City to the Contractor fixing the date on which the Contract Time will commence to run and on which the Contract Time will end.
- 1.24 Plans - The drawings which show the character and scope of the work to be performed and which have been prepared or approved by the City and are referred to in the Contract Documents.
- 1.25 Premises (otherwise known as Site or Work Site) – means the land, buildings, facilities, etc. upon which the Work is to be performed.
- 1.26 Project – The total construction of the Work to be provided as defined in the Contract Documents.
- 1.27 Project Manager - The employee of the City, or other designated individual who is herein referred to as the Project Manager, will assume all duties and responsibilities and will have the rights and authorities assigned to the Project Manager in the contract Documents in connection with completion of the Work in accordance with this Agreement. The Project Manager, or designee, shall be the authorized agent for the City unless otherwise specified.
- 1.28 Punch List - The City's list of Work yet to be done or be corrected by the Contractor, before the Final Completion date can be determined by the City.
- 1.29 Record Documents - A complete set of all specifications, drawings, addenda, modifications, shop drawings, submittals and samples annotated to show all changes made during the construction process.
- 1.30 Record Drawings or "As-Builts" - A set of drawings which show significant changes in the work made during construction and which are usually based on drawings marked up in the field and other data furnished by the contractor. These documents will be signed and sealed by the Engineer of Record or a Professional Land Surveyor licensed in the State of Florida.
- 1.31 Substantially Completed Date – A date when the Contractor has requested in writing, stating that the Work is substantially completed and is ready for an inspection and issuance of a final punch list for the Project.
- 1.32 Work – The entire completed delivered product 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 material and equipment into the product, all as required by the Contract Documents.

ARTICLE 2 – SCOPE OF WORK

- 2.1 The Contractor shall complete all work as specified or indicated in the Contract Documents. The Project for which the Work under the Contract Documents may be the whole or only part is generally described as follows:

RIVER OAKS PRESERVE
ITB NO. 12242-493, PROJECT NO. P11419

- 2.2 All Work for the Project shall be constructed in accordance with the Drawings and Specifications. The Work generally involves:

PROJECT DESCRIPTION

This Project is located at 2101 SW 19th Ave., Fort Lauderdale, FL 33315, and consists of the construction of a preservation park for the public, featuring wetlands and an elevated boardwalk, that incorporates a historic CSX bascule bridge, all in conformance with the Contract Documents.

- 2.3 Within ten (10) days of the execution of this Agreement, the Contractor shall submit a Construction Schedule, Schedule of Values and a listing of those subcontractors that will be utilized by the Contractor. The general sequence of the work shall be submitted by the Contractor and approved by the City before any work commences. The City reserves the right to issue construction directives necessary to facilitate the Work or to minimize any conflict with operations.

ARTICLE 3 – PROJECT MANAGER

- 3.1 The Project Manager is hereby designated by the City as Dronix Suarez, E.I., whose address is 101 N. E. 3rd Avenue, Suite 1410, Fort Lauderdale, FL 33301, telephone number: (954) 828-6982, and email address is dsuarez@fortlauderdale.gov. The Project Manager will assume all duties and responsibilities and will have the rights and authorities assigned to the Project Manager in the Contract Documents in connection with completion of the Work in accordance with this Agreement.

ARTICLE 4 – CONTRACT DOCUMENTS

The Contract Documents which comprise the entire Agreement between the City and Contractor are attached to this Agreement, are made a part hereof and consist of the following:

- 4.1 This Agreement.
- 4.2 The Contract Documents may only be altered, amended, or repealed in accordance with the specific provisions of the terms of this Agreement.
- 4.3 Exhibits to this Agreement: (Plans sheets [1] to [40] inclusive).

- 4.4 Public Construction Bond, Performance Bond, Payment Bond and Certificates of Insurance.
- 4.5 Notice of Award and Notice to Proceed.
- 4.6 General Conditions as amended by the Special Conditions.
- 4.7 Technical Specifications.
- 4.8 Plans/Drawings File No. 4-135-81; 40 pages
- 4.9 Addenda number 1 through 3, inclusive.
- 4.10 Bid Form and supplement Affidavits and Agreements.
- 4.11 All applicable provisions of State and Federal Law.
- 4.12 Invitation to Bid No. 12242-493, Instructions to Bidders, and Bid Bond.
- 4.13 Contractor's response to the City's Invitation to Bid No. 12242-493, dated October 4, 2019
- 4.14 Schedule of Completion and Schedule of Values.
- 4.15 All amendments, modifications and supplements, change orders and work directive changes issued on or after the Effective Date of the Agreement.
- 4.16 Any additional documents that are required to be submitted under the Agreement.
- 4.17 Permits on file with the City and or those permits to be obtained shall be considered directive in nature and will be considered a part of this Agreement. A copy of all permits shall be given to the City for inclusion in the Contract Documents. Terms of permits shall be met prior to acceptance of the Work and release of the final payment.

In the event of any conflict between the documents or any ambiguity or missing specification or instruction, the following priority is established:

- a. Specific direction from the City Manager (or designee).
- b. Approved change orders, addenda or amendments.
- c. Specifications (quality) and Drawings (location and quantity).
- d. Supplemental conditions or special terms.
- e. General Terms and Conditions.
- f. This Agreement dated **January 7, 2020** and any attachments.
- g. Invitation to Bid No. 12242-493, and the specifications prepared by the City.

- h. Contractor's response to the City's Invitation to Bid No. 12242-493 dated October 4, 2019.
- i. Schedule of Values.
- j. Schedule of Completion.

If during the performance of the Work, Contractor finds a conflict, error or discrepancy in the Contract Documents, Contractor shall so report to the Project Manager, in writing, at once and before proceeding with the Work affected shall obtain a written interpretation or clarification from the City.

It is the intent of the specifications and plans to describe a complete Project to be constructed in accordance with the Contract Documents. Any Work that may reasonably be inferred from the specifications or plans as being required to produce the intended result shall be supplied whether or not it is specifically called for. When words which have a well-known technical or trade meaning are used to describe Work, materials, or equipment, such works shall be interpreted in accordance with such meaning. Reference to standard specifications, manuals or codes of any technical society, organization or associations, or to the code of any governmental authority whether such reference be specific or implied, shall mean the latest standard specification, manual or code in effect as of the Effective Date of this Agreement, except as may be otherwise specifically stated. However, no provision of any referenced standard specification, manual or code (whether or not specifically incorporated by reference in the Contract Documents) shall change the duties and responsibilities of the City, the Contractor, or any of their agents or employees from those set forth in the Contract Documents.

ARTICLE 5 – CONTRACT TIME

- 5.1 The Contractor recognizes that **TIME IS OF THE ESSENCE**. The Work shall commence within 15 calendar days, (10) working days of the date of the Notice to Proceed.
- 5.2 The Work shall be Substantially Completed within 150 calendar days, (126) working days after the date when the Contract Time commences to run as provided in the Notice to Proceed.
- 5.3 The Work shall be finally completed on the Final Completion Date and ready for final payment in accordance with this Agreement within 180 calendar days, (132) working days after the date when the Contract Time commences to run as provided in the Notice to Proceed.

ARTICLE 6 – CONTRACT PRICE

- 6.1 City shall pay Contractor for performance of the Work in accordance with Article 7, subject to additions and deletions by Change Order, as provided for in this Agreement.
- 6.2 The parties expressly agree that the Contract Price, which shall not exceed the amount of \$1,523,086, constitutes the total maximum compensation payable to Contractor for performing the Work, plus any Work done pursuant to a Change Order.

The Contract Price is in accordance with the line item unit prices listed in the Bid. Line items are based on a unit price cost multiplied by a defined quantity. Any additional duties, responsibilities and obligations assigned to or undertaken by Contractor shall be at Contractor's expense without change to the Contract Price.

- 6.3 The Contract Price constitutes the compensation payable to Contractor for performing the Work plus any Work done pursuant to a Change Order. All duties, responsibilities and obligations assigned to or undertaken by Contractor shall be at Contractor's expense without change in the Contract price.

ARTICLE 7 – PAYMENT

- 7.1 Contractor shall submit Applications for Payment in accordance with the Contract Documents. Applications for Payment will be processed by City as provided in the General Conditions.
- 7.2 Progress Payments. City shall make progress payments on account of the Contract Price on the basis of Contractor's monthly Applications for Payment, which shall be submitted by the Contractor between the first (1st) and the tenth (10th) day after the end of each calendar month for which payment is requested. All progress payments will be made on the basis of the progress of the Work completed.
- 7.3 Prior to Final Completion, progress payments will be made in an amount equal to ninety percent (90%) of the value of Work completed less in each case the aggregate of payments previously made.
- 7.4 Final Payment. Upon final completion of the Work in accordance with the General Conditions, as may be supplemented, the City shall pay Contractor an amount sufficient to increase total payments to one-hundred percent (100%) of the Contract Price. However, not less than ten percent (10%) of the Contract Price shall be retained until Record Drawings (as-builts), specifications, addenda, modifications and shop drawings, including all manufacturers' instructional and parts manuals are delivered to and accepted by the City.
- 7.5 City may withhold, in whole or in part, payment to such extent as may be necessary to protect itself from loss on account of:
- 7.5.1 Defective work not remedied.
 - 7.5.2 Claims filed or reasonable evidence indicating probable filing of claims by other parties against Contractor or City because of Contractor's performance.
 - 7.5.3 Failure of Contractor to make payments properly to Subcontractors or for material or labor.
 - 7.5.4 Damage to another contractor not remedied.
 - 7.5.5 Liquidated damages and costs incurred by Consultant for extended construction administration, if applicable.

7.5.6 Failure of Contractor to provide any and all documents required by the Contract Documents.

When the above grounds are removed or resolved satisfactory to the Project Manager, payment shall be made in whole or in part.

7.6 The City shall make payment to the Contractor in accordance with the Florida Prompt Payment Act, Section 218.70, Florida Statutes.

7.7 The City shall make payment to the Contractor through utilization of the City's P-Card Program. The City has implemented a Purchasing Card (P-Card) Program utilizing both VISA and MASTERCARD networks. Purchases from this contract will be made utilizing the City's Purchasing Card. Contractor will receive payment from the purchasing card in the same manner as other credit card purchases. Accordingly, bidders must presently have the ability to accept these credit cards or take whatever steps necessary to implement the ability before the start of the contract term, or contract award by the City. The City reserves the right to revise this program as necessary. All costs associated with the Contractor's participation in this purchasing program shall be borne by the Contractor. The City reserves the right to revise this program as necessary.

ARTICLE 8 – CONTRACTOR'S REPRESENTATIONS

In order to induce the City to enter into this Agreement, Contractor makes the following representations upon which the City has relied:

8.1 Contractor is qualified in the field of public construction and in particular, to perform the Work and services set forth in this Agreement. The amount of work that is sublet by the Contractor shall be limited by the condition that the Contractor, shall with his own organization, perform at least forty percent (40%) of the total dollar amount of the Work to be performed under the Agreement.

8.2 Contractor has visited the Work Site, has conducted extensive tests, examinations and investigations and represents and warrants a thorough familiarization with the nature and extent of the Contract Documents, the Work, locality, soil conditions, moisture conditions and all year-round local weather and climate conditions (past and present), and, in reliance on such tests, examination and investigations conducted by Contractor and the Contractor's experts, has determined that no conditions exist that would in any manner affect the Proposed Price and that the project can be completed for the Proposed Price submitted within the Contract Time as defined in this Agreement. Furthermore, Contractor warrants and confirms that he is totally familiar with, understands and obligates Contractor to comply with all federal, state and local laws, ordinances, rules, regulations and all market conditions that affect or may affect the cost and price of materials and labor needed to fulfill all provisions of this Agreement or that in any manner may affect cost, progress or performance of the Work.

8.3 The Contractor has satisfied itself as to the nature and location of the Work under the Contract Documents, the general and local conditions of the Project, particularly those bearing upon availability of transportation, disposal, handling and storage of materials, availability of labor, water, electric power, and roads, the conformation and conditions

at the ground based on City provided reports, the type of equipment and facilities needed preliminary to and during the prosecution of the Work and all other matters which can in any way affect the Work or the cost thereof under the Contract Documents.

- 8.4 The Contractor has also studied carefully all reports of investigations and tests of subsurface and latent physical conditions at the site or otherwise affecting cost, progress or performance of the Works, and finds and has further determined that no conditions exist that would in any manner affect the Proposed Price and that the project can be completed for the Proposed Price submitted.
- 8.5 Contractor has made or caused to be made examinations, investigations, tests and studies of such reports and related data in addition to those referred to in Paragraphs 8.2, 8.3 and 8.4 above as he deems necessary for the performance of the Work at the Contract Prices, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents; and no additional examinations, investigations, tests, reports or similar data are, or will be, required by Contractor for such purposes.
- 8.6 Contractor has correlated the results of all such observations, examinations, investigations, tests, reports and data with the terms and conditions of the Contract Documents.
- 8.7 Contractor has given City written notice of all conflicts, errors or discrepancies that he has discovered in the Contract Documents and the written resolution by City is acceptable to the Contractor.
- 8.8 Labor:
- 8.8.1 The Contractor shall provide competent, suitable qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. The Contractor shall at all times maintain good discipline and order at the site.
- 8.8.2 The Contractor shall, at all times, have a competent superintendent, capable of reading and thoroughly understanding the drawings and specifications, as the Contractor's agent on the Work, who shall, as the Contractor's agent, supervise, direct and otherwise conduct the Work.
- 8.8.3 The Contractor shall designate the superintendent on the job to the City, in writing, immediately after receipt of the Notice to Proceed. The Contractor understands and agrees that the superintendent's physical presence on the job site is indispensable to the successful completion of the Work. If the superintendent is frequently absent from the job site, the Project Manager may deliver written notice to the Contractor to stop work or terminate the Contract in accordance with Article 17.
- 8.8.4 The Contractor shall assign personnel to the job site that have successfully completed training programs related to trench safety, confined space and maintenance of traffic. A certified "competent person" shall be assigned to the job site. Personnel certified by the International Municipal Signal Associations

with Florida Department of Transportation qualifications are required relative to maintenance of traffic. Failure to pursue the Work with the properly certified supervisory staff may result in notice to stop work or terminate the Contract in accordance with Article 17.

8.9 Materials:

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

8.9.2 All material and equipment shall be of good quality and new, except as otherwise provided in the Contract Documents. Suppliers shall be selected and paid by the Contractor; the City reserves the right to approve all suppliers and materials.

8.10 Work Hours: Except in connection with the safety or protection of persons, or the Work, or property at the site or adjacent thereto, and except as otherwise indicated in the Supplementary Conditions, all work at the site shall be performed during regular working hours between 7 a.m. and 4:30 p.m., Monday through Friday. The Contractor will not permit overtime work or the performance of work on Saturday, Sunday or any legal holiday (designated by the City of Fort Lauderdale) without the Project Manager's written consent at least seventy-two (72) hours in advance of starting such work. If the Project Manager permits overtime work, the Contractor shall pay for the additional charges to the City with respect to such overtime work. Such additional charges shall be a subsidiary obligation of the Contractor and no extra payment shall be made to the Contractor for overtime work. It shall be noted that the City's Inspector work hours are from 8:00 a.m. to 4:30 p.m., Monday through Friday and any work requiring inspection oversight being performed outside of this timeframe shall be paid for by the Contractor as Inspector overtime at a rate of \$100.00 per hour. The cost to the Contractor to reimburse the City for overtime inspection is established at direct-labor and overtime costs for each person or inspector required. Incidental overtime costs for engineering, testing and other related services will also be charged to the Contractor at the actual rate accrued.

8.11 Patent Fee and Royalties: The Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work, or any invention, design, process, product or device which is the subject of patent rights or copyrights held by others. The Contractor hereby expressly binds himself or itself to indemnify and hold harmless the City from all such claims and fees and from any and all suits and action of every name and description that may be brought against City on account of any such claims, fees, royalties, or costs for any such invention or patent, and from any and all suits or actions that may be brought against said City for the infringement of any and all patents or patent rights claimed by any person, firm corporation or other entity.

8.12 Permits: The Contractor shall obtain and pay for all permits and licenses. There shall be no allowance for Contractor markup, overhead or profit for permits and licenses.

The Contractor shall pay all government charges which are applicable at the time of opening of proposals. It shall be the responsibility of the Contractor to secure and pay for all necessary licenses and permits of a temporary nature necessary for the prosecution of Work.

- 8.13 Law and Regulations: The Contractor shall give all notices and comply with all laws, ordinances, rules and regulations applicable to the Work. If the Contractor observes that the specifications or plans are at variance therewith, the Contractor shall give the Project Manager prompt written notice thereof, and any necessary changes shall be adjusted by any appropriate modifications. If the Contractor performs any work knowing or having reason to know that it is contrary to such laws, ordinances, rules and regulations, and without such notice to the Project Manager, the Contractor shall bear all costs arising therefrom; however, it shall not be the Contractor's primary responsibility to make certain that the specifications and plans are in accordance with such laws, ordinances, rules and regulations.
- 8.14 Taxes: The Contractor shall pay all sales, consumer, use and other similar taxes required to be paid by him in accordance with the laws of the City of Fort Lauderdale, County of Broward, State of Florida.
- 8.15 Contractor Use of Premises: The Contractor shall confine construction equipment, the storage of materials and equipment and the operations of workmen to areas permitted by law, ordinances, permits and/or the requirements of the Contract Documents, and shall not unreasonably encumber the premises with construction equipment or other materials or equipment.

The Contractor shall not enter upon private property for any purpose without first securing the permission of the property owner in writing and furnishing the Project Manager with a copy of said permission. This requirement will be strictly enforced, particularly with regard to such vacant properties as may be utilized for storage or staging by the Contractor.

The Contractor shall conduct his work in such a manner as to avoid damage to adjacent private or public property. Any damage to existing structures of work of any kind, including permanent reference markers or property corner markers, or the interruption of a utility service, shall be repaired or restored promptly at no expense to the City or property owner.

The Contractor will preserve and protect all existing vegetation such as trees, shrubs and grass on or adjacent to the site which do not reasonably interfere with the construction, as determined by the Project Manager. The Contractor will be responsible for repairing or replacing any trees, shrubs, lawns and landscaping that may be damaged due to careless operation of equipment, stockpiling of materials, tracking of grass by equipment or other construction activity. The Contractor will be liable for, or will be required to replace or restore at no expense to the City all vegetation not protected or preserved as required herein that may be destroyed or damaged.

During the progress of the work, the Contractor shall keep the premises free from accumulations of waste materials, rubbish and debris resulting from the Work. At the

completion of the Work, the Contractor shall remove all waste materials, rubbish and debris from and about the premises as well as all tools, appliances, construction equipment and machinery, and surplus materials and shall leave the site clean and ready for occupancy by the City. The Contractor shall restore to their original condition those portions of the site not designated for alteration by the Contract Documents at no cost to the City.

8.16 Project Coordination: The Contractor shall provide for the complete coordination of the construction effort. This shall include, but not necessarily be limited to, coordination of the following:

8.16.1 Flow of material and equipment from suppliers.

8.16.2 The interrelated work with affected utility companies. The interrelated work with the City where tie-ins to existing facilities are required.

8.16.3 The effort of independent testing agencies.

8.16.4 Notice to affected property owners as may be directed by the Project Manager.

8.17 Project Record Documents and Final As-Builts (Record Drawings): Contractor shall be responsible for maintaining up-to-date redline as-built drawings, on site, at all times during construction. All as-built information shall be surveyed and verified by a professional land surveyor registered in the State of Florida. Contractor shall provide the City with a minimum of three (3) sets of signed and sealed record drawings (Final As-Builts) and a CD of the electronic drawings files created in AutoCad 2014 or later. All costs associated with survey work required for construction layout and as-built preparation shall be the responsibility of the Contractor.

8.18 Safety and Protection:

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

8.18.1.1 All employees working on the project and other persons who may be affected thereby.

8.18.1.2 All the Work and all materials or equipment to be incorporated therein, whether in storage on or off the site.

8.18.1.3 Other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

8.18.2 The Contractor shall comply with all applicable laws, ordinances, rules, regulations and orders of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss; and shall erect and maintain all necessary safeguards for such safety and protection. The Contractor shall notify owners of adjacent property and utilities when

execution of the Work may affect them at least seventy-two (72) hours in advance (unless otherwise required). All damage, injury or loss to any property caused, directly or indirectly, in whole or in part by the Contractor, any subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, shall be remedied by the Contractor. The Contractor's duties and responsibilities for safety and protection of the Work shall continue until such time as all the Work is completed and accepted by the City.

- 8.19 Emergencies: In emergencies affecting the safety or protection of persons or the Work or property at the site or adjacent thereto, the Contractor, without special instruction or authorization from the City is obligated to act to prevent threatened damage, injury or loss. The Contractor shall give the Project Manager prompt written notice of any significant changes in the Work or deviations from the Contract Documents caused thereby.
- 8.20 Risk of Loss: The risk of loss, injury or destruction shall be on the Contractor until acceptance of the Work by the City. Title to the Work shall pass to the City upon acceptance of the Work by the City.
- 8.21 Environmental: The Contractor has fully inspected the Premises and agrees, except as to the presence of any asbestos, to accept the Premises in an "as is" physical condition, without representation or warranty by the City of any kind, including, without limitation, any and all existing environmental claims or obligations that may arise from the presence of any "contamination" on, in or about the Premises. Further, Contractor and all entities claiming by, through or under the Contractor, releases and discharges the City, from any claim, demand, or cause of action arising out of or relating to the Contractor's use, handling, storage, release, discharge, treatment, removal, transport, decontamination, cleanup, disposal and/or presence of any hazardous substances including asbestos on, under, from or about the Premises. The Contractor shall have no liability for any pre-existing claims or "contamination" on the Premises.

The Contractor shall not use, handle, store, discharge, treat, remove, transport, or dispose of Hazardous Substances including asbestos at, in, upon, under, to or from the Premises until receipt of instructions from the City. At such time, a City approved Change Order, which shall not include any profit, shall authorize the Contractor to perform such services.

The Contractor shall immediately deliver to the Project Manager complete copies of all notices, demands, or other communications received by the Contractor from any governmental or quasi-governmental authority or any insurance company or board of fire underwriters or like or similar entities regarding in any way alleged violations or potential violations of any Environmental Law or otherwise asserting the existence or potential existence of any condition or activity on the Premises which is or could be dangerous to life, limb, property, or the environment.

For other and additional consideration, the Contractor hereby agrees, at its sole cost and expense, to indemnify and protect, defend, and hold harmless the City and its respective employees, agents, officials, officers, representatives, contractors and subcontractors, successors, and assigns (hereafter the "City") from and against any

and all claims, demands, losses, damages, costs, expenses, including but not limited to mitigation, restoration, and natural restoration expenses, liabilities, assessments, fines, penalties charges, administrative and judicial proceedings and orders, judgments, causes of action, in law or in equity, remedial action requirements and/or enforcement actions of any kind (including, without limitation, attorneys' fees and costs) directly or indirectly arising out of or attributable to, in whole or in part, the Contractor's use, handling, storage, release, threatened release, discharge, treatment, removal, transport, decontamination, cleanup, disposal and/or presence of a Hazardous Substance (excluding asbestos) on, under, from, to or about the Premises or any other activity carried on or undertaken on or off the Premises by the Contractor or its employees, agents or subcontractors, in connection with the use, handling, storage, release, threatened release, discharge, treatment, mitigation, natural resource restoration, removal, transport, decontamination, cleanup, disposal and/or presence or any Hazardous Substance including asbestos located, transported, or present on, undue, from, to, or about the Premises. This indemnity is intended to be operable under 42 U.S.C. sections 9607, as amended, and any successor section.

The scope of the indemnity obligations includes, but is not limited to: (a) all consequential damages; (b) the cost of any required or necessary repair, cleanup, or detoxification of the applicable real estate and the preparation and implementation of any closure, remedial or other required plan, including without limitation; (i) the costs of removal or remedial action incurred by the United States government or the State of Florida or response costs incurred by any other person, or damages from injury to destruction of, or loss of, natural resources, including the cost of assessing such injury, destruction, or loss, incurred pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended; (ii) the clean-up costs, fines, damages, or penalties incurred pursuant to any applicable provisions of Florida law; and (iii) the cost and expenses of abatement, correction or cleanup, fines, damages, response costs, or penalties which arise from the provisions of any other statute, law, regulation, code ordinance, or legal requirement state or federal; and (c) liability for personal injury or property damage arising under any statutory or common law tort theory, including damages assessed for the maintenance of a public private nuisance, response costs, or for the carrying on of an abnormally dangerous activity.

- 8.22 No Extended Damages: For other and additional good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the Contractor covenants and agrees that in the event of any delay of construction or for any other reason or allegation or claim, and notwithstanding the reason of the delay, reason, claim or allegation or who caused them or the construction delay or whether they were caused by the City, that there will be no entitlement to Contractor to or for any direct or indirect financial damages or losses for extended corporate overhead impact, extended project overhead impacts, project support services, mobilization or demobilization or by whatever other label or legal concept or theory and types of names or labels or basis such claims may have, or any business damages or losses of whatever type or nature, and Contractor hereby waives any right to make any such claim or claims. This provision will have application and effect when construction delays are anticipated and agreed upon by both the City and the Contractor.
- 8.23 No Liens: If any Subcontractor, supplier, laborer, or materialmen of Contractor or any other person directly or indirectly acting for or through Contractor files or attempts to

file a mechanic's or construction lien against the real property on which the work is performed or any part or against any personal property or improvements or claim against any monies due or to become due from the City to Contractor or from Contractor to a Subcontractor, for or on account of any work, labor, services, material, equipment, or other items furnished in connection with the Work or any Change Order, Contractor agrees to satisfy, remove, or discharge such lien or claim at its own expense by bond, payment, or otherwise within twenty (20) days of the filing or from receipt of written notice from the City.

Additionally, until such time as such lien or claim is satisfied, removed or discharged by Contractor, all monies due to Contractor, or that become due to Contractor before the lien or claim is satisfied, removed or otherwise discharged, shall be held by City as security for the satisfaction, removal and discharge of such lien and any expense that may be incurred while obtaining such. If Contractor shall fail to do so, City shall have the right, in addition to all other rights and remedies provided by this Agreement or by law, to satisfy, remove, or discharge such lien or claim by whatever means City chooses at the entire and sole cost and expense of Contractor which costs and expenses shall, without limitation, include attorney's fees, litigation costs, fees and expenses and all court costs and assessments.

- 8.24 Weather Emergencies: Upon issuance of a Hurricane Watch by the National Weather Service, the Contractor shall submit to the City a plan to secure the work area in the event a Hurricane Warning is issued. The plan shall detail how the Contractor will secure the Premises, equipment and materials in a manner as to prevent damage to the Work and prevent materials and equipment from becoming a hazard to persons and property on and around the Premises. The plan shall include a time schedule required to accomplish the hurricane preparations and a list of emergency contacts that will be available and in the City before, during and immediately after the storm.

Upon issuance of a Hurricane Warning by the National Weather Service, if the Contractor has not already done so, the Contractor shall implement its hurricane preparedness plan. Cost of development and implementation of the hurricane preparedness plan shall be considered as incidental to construction. Cost of any clean up and rework required after the storm will be considered normal construction risk within Florida and shall not entitle the Contractor to any additional compensation. Contractor shall be entitled to request an extension in time for completion of the Work, in accordance with the provisions of Article 15 of this Agreement, equal to the time he is shut down for implementation of the preparedness plan, the duration of the storm and a reasonable period to restore the Premises.

- 8.25 Force Majeure: No Party shall hold the other responsible for damages or for delays in performance caused by force majeure, acts of God, or other acts or circumstances beyond the control of the other party or that could not have been reasonably foreseen and prevented. For this purposes, such acts or circumstances shall include, but not be limited to weather conditions affecting performance, floods, epidemics, war, riots, strikes, lockouts, or other industrial disturbances, or protest demonstrations. Should such acts or circumstances occur, the parties shall use their best efforts to overcome the difficulties arising therefrom and to resume the Work as soon as reasonably possible with the normal pursuit of the Work.

Inclement weather, continuous rain for less than three (3) days or the acts or omissions of subcontractors, third-party contractors, materialmen, suppliers, or their subcontractors, shall not be considered acts of force majeure.

No Party shall be liable for its failure to carry out its obligations under the Agreement during a period when such Party is rendered unable by force majeure to carry out its obligation, but the obligation of the Party or Parties relying on such force majeure shall be suspended only during the continuance of the inability and for no longer period than the unexpected or uncontrollable event.

The Contractor further agrees and stipulates, that its right to excuse its failure to perform by reason of force majeure shall be conditioned upon giving written notice of its assertion that a Force Majeure delay has commenced within 96 hours after such an occurrence. The CONTRACTOR shall use its reasonable efforts to minimize such delays. The CONTRACTOR shall promptly provide an estimate of the anticipated additional time required to complete the Project.

- 8.26 Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assisted Contracts: The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR part 26. The recipient shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The recipient's DBE program, as required by 49 CFR part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

Additionally, the contractor assures that they, the sub recipient or the subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate. (This additional language must be included in each subcontract the prime contractor signs with a subcontractor.)

ARTICLE 9 – CITY'S RESPONSIBILITIES

- 9.1 The City shall furnish the data required of the City under the Contract Documents promptly and shall make payments to the Contractor promptly after they are due as provided in Article 7.
- 9.2 The City's duties in respect of providing lands and easements and providing engineering surveys to establish reference points are set forth in the Contract Documents.

9.3 Technical Clarifications and Interpretations:

9.3.1 The City shall issue, with reasonable promptness, such written clarifications or interpretations of the Contract Documents as it may determine necessary, which shall be consistent with or reasonably inferable from the overall intent of the Contract Documents. Should the Contractor fail to request interpretation of questionable items in the Contract Documents, the City shall not entertain any excuse for failure to execute the Work in a satisfactory manner.

9.3.2 The City shall interpret and decide matters concerning performance under the requirements of the Contract Documents, and shall make decisions on all claims, disputes or other matters in question. Written notice of each claim, dispute or other matter will be delivered by claimant to the other Party but in no event later than five (5) days after the occurrence of event, and written supporting date will be submitted to the other Party within five (5) days after such occurrence. All written decisions of the City on any claim or dispute will be final and binding.

9.4 The Contractor shall perform all Work to the reasonable satisfaction of the City in accordance with the Contract Documents. In cases of disagreement or ambiguity, the City shall decide all questions, difficulties, and disputes of whatever nature, which may arise under or by reason of this Agreement or the quality, amount and value of the Work, and the City's decisions on all claims, questions and determination are final.

ARTICLE 10 – BONDS AND INSURANCE

10.1 Public Construction and Other Bonds: The Contractor shall furnish Public Construction or Performance and Payment Bonds ("Bond"), each in an amount at least equal to the Contract Price as security for the faithful performance and payment of all the Contractor's obligations under the Contract Documents. These Bonds shall remain in effect until at least one (1) year after the date of final payment, except as otherwise provided by law. All Bonds shall be furnished and provided by the surety and shall be in substantially the same form as prescribed by the Contract Documents and be executed by such sureties as (i) are licensed to conduct business in the State of Florida, and (ii) are named in the current list of Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies as published in Circular 570 (amended) by the Audit Staff Bureau of Accounts, U.S. Treasury Department and (iii) otherwise meet the requirements set forth herein that apply to sureties. All Bonds signed by an agent must be accompanied by a certified copy of the authority to act.

10.1.1 Performance Bond: The Contractor shall execute and record in the public records of Broward County, Florida, a payment and performance bond in an amount at least equal to the Contract Price with a surety insurer authorized to do business in the State of Florida as surety, ("Bond"), in accordance with Section 255.05, Florida Statutes (2014), as may be amended or revised, as security for the faithful performance and payment of all of the Contractor's obligations under the Contract Documents.

A Corporate Surety Bond legally issued, meeting the approval of, and running to the City in an amount not less than the Contract Price of such improvements, conditioned that the Contractor shall maintain and make all repairs to the improvements constructed by the Contractor at their own expense and free of charge to the City, for the period of one (1) year after the date of acceptance of the Work within such period by reason of any imperfection of the material used or by reason of any defective workmanship, or any improper, imperfect or defective preparation of the base upon which any such improvement shall be laid.

10.2 Disqualification of Surety: If the Surety on any Bond furnished by the Contractor is declared bankrupt or becomes insolvent or its right to do business is terminated in the State of Florida or it ceases to meet the requirements of clauses (i) and (ii) of Paragraph 10.1, the Contractor shall within five (5) days thereafter substitute another Bond and Surety, both of which shall be acceptable to the City.

10.3 Insurance:

10.3.1 As a condition precedent to the effectiveness of this Agreement, during the term of this Agreement and during any renewal or extension term of this Agreement, the Contractor, at the Contractor's sole expense, shall provide insurance of such types and with such terms and limits as noted below. Providing proof of and maintaining adequate insurance coverage are material obligations of the Contractor. The Contractor shall provide the City a certificate of insurance evidencing such coverage. The Contractor's insurance coverage shall be primary insurance for all applicable policies. The limits of coverage under each policy maintained by the Contractor shall not be interpreted as limiting the Contractor's liability and obligations under this Agreement. All insurance policies shall be from insurers authorized to write insurance policies in the State of Florida and that possess an A.M. Best rating of A-, VII or better. All insurance policies are subject to approval by the City's Risk Manager.

The coverages, limits, and endorsements required herein protect the interests of the City, and these coverages, limits, and endorsements may not be relied upon by the Contractor for assessing the extent or determining appropriate types and limits of coverage to protect the Contractor against any loss exposure, whether as a result of this Agreement or otherwise. The requirements contained herein, as well as the City's review or acknowledgement, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the Contractor under this Agreement.

The following insurance policies and coverages are required:

10.3.2 Commercial General Liability:

Coverage must be afforded under a Commercial General Liability policy with limits not less than:

- \$1,000,000 each occurrence and \$2,000,000 aggregate for Bodily Injury, Property Damage, and Personal and Advertising Injury
- \$1,000,000 each occurrence and \$2,000,000 aggregate for Products and Completed Operations

Policy must include coverage for Contractual Liability and Independent Contractors.

The City and the City's officers, employees, and volunteers are to be covered as additional insureds with a CG 20 26 04 13 Additional Insured – Designated Person or Organization Endorsement or similar endorsement providing equal or broader Additional Insured Coverage with respect to liability arising out of activities performed by or on behalf of the Contractor. The coverage shall contain no special limitation on the scope of protection afforded to the City or the City's officers, employees, and volunteers.

10.3.3 Business Automobile Liability:

Coverage must be afforded for all Owned, Hired, Scheduled, and Non-Owned vehicles for Bodily Injury and Property Damage in an amount not less than \$1,000,000 combined single limit each accident.

If the Contractor does not own vehicles, the Contractor shall maintain coverage for Hired and Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

10.3.4 Workers' Compensation and Employer's Liability:

Coverage must be afforded per Chapter 440, Florida Statutes. Any person or entity performing work for or on behalf of the City must provide Workers' Compensation insurance. Exceptions and exemptions will be allowed by the City's Risk Manager, if they are in accordance with Florida Statute.

The Contractor waives, and the Contractor shall ensure that the Contractor's insurance carrier waives, all subrogation rights against the City and the City's officers, employees, and volunteers for all losses or damages. The City requires the policy to be endorsed with WC 00 03 13 Waiver of our Right to Recover from Others or equivalent.

The Contractor must be in compliance with all applicable State and federal workers' compensation laws, including the U.S. Longshore Harbor Workers' Act and the Jones Act, if applicable.

10.3.5 Crane and Rigging Liability:

Coverage must be afforded for any crane operations under the Commercial General or Business Automobile Liability policy as necessary, in line with the limits of the associated policy.

Insurance Certificate Requirements

- a. The Contractor shall provide the City with valid Certificates of Insurance (binders are unacceptable) no later than thirty (30) days prior to the start of work contemplated in this Agreement.
- b. The Contractor shall provide to the City a Certificate of Insurance having a thirty (30) day notice of cancellation; ten (10) days' notice if cancellation is for nonpayment of premium.

- c. In the event that the insurer is unable to accommodate the cancellation notice requirement, it shall be the responsibility of the Contractor to provide the proper notice. Such notification will be in writing by registered mail, return receipt requested, and addressed to the certificate holder.
- d. In the event the Agreement term goes beyond the expiration date of the insurance policy, the Contractor shall provide the City with an updated Certificate of Insurance no later than ten (10) days prior to the expiration of the insurance currently in effect. The City reserves the right to suspend the Agreement until this requirement is met.
- e. The Certificate of Insurance shall indicate whether coverage is provided under a claims-made or occurrence form. If any coverage is provided on a claims-made form, the Certificate of Insurance must show a retroactive date, which shall be the effective date of the initial contract or prior.
- f. The City shall be named as an Additional Insured on the general liability policies, with the exception of Workers' Compensation.
- g. The City shall be granted a Waiver of Subrogation on the Contractor's Workers' Compensation insurance policy.
- h. The title of the Agreement, Bid/Contract number, event dates, or other identifying reference must be listed on the Certificate of Insurance.

The Certificate Holder should read as follows:

City of Fort Lauderdale
100 N. Andrews Avenue
Fort Lauderdale, FL 33301

The Contractor has the sole responsibility for the payment of all insurance premiums and shall be fully and solely responsible for any costs or expenses as a result of a coverage deductible, co-insurance penalty, or self-insured retention; including any loss not covered because of the operation of such deductible, co-insurance penalty, self-insured retention, or coverage exclusion or limitation. Any costs for adding the City as an Additional Insured shall be at the Contractor's expense.

If the Contractor's primary insurance policy/policies do not meet the minimum requirements, as set forth in this Agreement, the Contractor may provide evidence of an Umbrella/Excess insurance policy to comply with this requirement.

The Contractor's insurance coverage shall be primary insurance as applied to the City and the City's officers, employees, and volunteers. Any insurance or self-insurance maintained by the City covering the City, the City's officers, employees, or volunteers shall be non-contributory.

Any exclusion or provision in the insurance maintained by the Contractor that excludes coverage for work contemplated in this Agreement shall be unacceptable and shall be considered breach of contract.

All required insurance policies must be maintained until the contract work has been accepted by the City, or until this Agreement is terminated, whichever is later. Any lapse in coverage shall be considered breach of contract. In addition, Contractor must provide to the City confirmation of coverage renewal via an updated certificate should any policies expire prior to

the expiration of this Agreement. The City reserves the right to review, at any time, coverage forms and limits of Contractor's insurance policies.

The Contractor shall provide notice of any and all claims, accidents, and any other occurrences associated with this Agreement shall be provided to the Contractor's insurance company or companies and the City's Risk Management office as soon as practical.

It is the Contractor's responsibility to ensure that any and all of the Contractor's independent contractors and subcontractors comply with these insurance requirements. All coverages for independent contractors and subcontractors shall be subject to all of the applicable requirements stated herein. Any and all deficiencies are the responsibility of the Contractor.

NOTE: CITY PROJECT NUMBER, PROJECT NAME, BID NUMBER MUST APPEAR ON EACH CERTIFICATE, AND THE CITY OF FORT LAUDERDALE MUST BE NAMED ON THE CERTIFICATE AS AN "ADDITIONAL INSURED" ON GENERAL LIABILITY POLICIES.

ARTICLE 11- WARRANTY AND GUARANTEE, TESTS AND INSPECTIONS, CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

11.1 Warranty: The Contractor warrants and guarantees to the City that all Work will be in accordance with the Contract Documents and will not be defective. Prompt notice of all defects shall be given to the Contractor. All defective work, whether or not in place, may be rejected, corrected or accepted as provided in this Article.

11.1.1 Warranty of Title: The Contractor warrants to the City that it possesses good, clear and marketable title to all equipment and materials provided and that there are no pending liens, claims or encumbrances against the equipment and materials.

11.1.2 Warranty of Specifications: The Contractor warrants that all equipment, materials and workmanship furnished, whether furnished by the Contractor, its subcontractors or suppliers, will comply with the specifications, drawings and other descriptions supplied or adopted and that all services will be performed in a workmanlike manner.

11.1.3 Warranty of Merchantability: The Contractor warrants that any and all equipment to be supplied pursuant to this Agreement is merchantable, free from defects, whether patent or latent in material or workmanship, and fit for the ordinary purposes for which it is intended.

11.2 Tests and Inspections: Contractor shall retain the services of an independent, certified, testing lab to perform all testing as required by the specifications, Contract drawings, and any applicable permitting agency. Contractor shall provide evidence of certification to the City before the work and testing is done. Testing results shall be submitted to the Engineer for review and approval at the time the results are provided to the Contractor. The Contractor shall give the Project Manager and City Inspector a minimum of twenty-four (24) hours' advanced notice of readiness of the Work for all required inspections, tests, or approvals and shall notify all applicable permitting agencies in a timely manner based on requirements set forth in the permit documents.

11.2.1 Neither observations by the Project Manager nor inspections, tests or approvals by others shall relieve the Contractor from its obligations to perform the Work in accordance with the Contract Documents.

11.3 Uncovering Work: If any work that is to be inspected, tested or approved is covered without approval or consent of the Project Manager, it must, if requested by the Project Manager, be uncovered for observation and/or testing. Such uncovering and replacement shall be at the Contractor's sole expense unless the Contractor has given the Project Manager timely notice of the Contractor's intention to cover such Work and the Project Manager has not acted with reasonable promptness in response to such notice.

11.3.1 If the Project Manager considers it necessary or advisable that Work covered in accordance with Paragraph 11.2.1, 11.2.2 and 11.2.3 be observed by the City or inspected or tested by others, the Contractor at the City's request, shall uncover, expose or otherwise make available for observation, inspection or testing as the 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, the Contractor shall bear all the expenses of such uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction, including compensation for additional professional services, and an appropriate deductive Change Order shall be issued. If, however, such work is not found to be defective, the Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to such uncovering, exposure, observation, inspection testing and reconstruction if he makes a claim therefore as provided in Articles 14 and 15.

11.4 City May Stop the Work: If the Work is defective, or the Contractor fails to supply sufficient skilled supervisory personnel or workmen or suitable materials or equipment or the work area is deemed unsafe, the City may order the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of the City to stop the Work shall not give rise to any duty on the part of the City to exercise this right for the benefit of the Contractor or any other party. The City will not award any increase in Contract Price or Contract Time if the Work is stopped due to the circumstances described herein.

11.5 Correction or Removal of Defective Work Before Final Payment: If required by the Project Manager, the Contractor shall promptly, without cost to the City and as Specified by the Project Manager, either correct any defective Work, whether or not fabricated, installed or completed, or if the Work has been rejected by the City remove it from the site and replace it with non-defective Work.

11.6 One Year Correction Period After Final Payment: If within one (1) year after the date of final acceptance, or such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee required by the Contract Documents, any work is found to be defective, the Contractor shall promptly, without cost to the City and in accordance with the City's written instructions, either correct such defective Work, or, if it has been rejected by the City, remove it from the site and replace it with non-defective Work.

If The Contractor does not promptly comply with the terms of such instructions or in an emergency where delay would cause serious risk of loss or damage, the City may have the defective Work corrected or the rejected Work removed and replaced, and all direct and indirect costs for such removal and replacement, including compensation for additional professional services, shall be paid by the Contractor.

- 11.7 Acceptance of Defective Work, Deductions: If, instead of requiring correction or removal and replacement of defective Work, the City, at the City's sole option, prefers to accept it, the City may do so. In such a case, if acceptance occurs prior to the Project Manager's recommendation of final payments, a Change Order shall be issued incorporating the necessary revisions in the Contract's Documents, including appropriate reduction in the Contract Price; or if the acceptance occurs after such recommendation, an appropriate amount shall be paid by the Contractor to the City.
- 11.8 City May Correct Defective Work: If the Contractor fails within a reasonable time after written notice of the Project Manager to proceed to correct defective Work or to remove and replace rejected Work as required by the Project Manager in accordance with Paragraph 11.5, or if the Contractor fails to perform the Work in accordance with the Contract Documents, the City may, after seven (7) days written notice to the Contractor, correct and remedy any such deficiency. In exercising its rights under this paragraph, the City shall proceed expeditiously. To the extent necessary to complete corrective and remedial action, the City may exclude the Contractor from all or part of the site, take possession of all or part of the Work, suspend the Contractor's services related thereto and take possession of the Contractor's tools, construction equipment and materials stored at the site or elsewhere. The Contractor shall allow the City's representative agents and employees such access to the site as may be necessary to enable the City to exercise its rights under this paragraph. All direct and indirect costs of the City in exercising such rights shall be charged against the Contractor in an amount verified by the Project Manager, and a Change Order shall be issued incorporating the necessary revisions in the Contract Documents and a reduction in the Contract Price. Such direct and indirect costs shall include, in particular but without limitation, compensation for additional professional services required and costs of repair and replacement of work of others destroyed or damaged by correction, removal or replacement of the Contractor's defective Work. The 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 the City of the City's right hereunder.

ARTICLE 12 – INDEMNIFICATION

- 12.1 Disclaimer of Liability: The City shall not at any time, be liable for injury or damage occurring to any person or property from any cause, whatsoever, arising out of Contractor's construction and fulfillment of this agreement.
- 12.2 Indemnification: For other, additional good valuable consideration, the receipt and sufficiency of which is hereby acknowledged:
- 12.2.1 Contractor shall, at its sole cost and expense, indemnify and hold harmless the City, its representatives, employees and elected and appointed officials from or on account of all claims, damages, losses, liabilities and expenses, direct,

indirect or consequential including but not limited to fees and charges of engineers, architects, attorneys, consultants and other professionals and court costs arising out of or in consequence of the performance of this Agreement at all trial and appellate levels. Indemnification shall specifically include but not be limited to claims, damages, losses, liabilities and expenses arising out of or from (a) the negligent or defective design of the project and Work of this Agreement; (b) any act, omission or default of the Contractor, its Subcontractors, agents, servants or employees; (c) any and all bodily injuries, sickness, disease or death; (d) injury to or destruction of tangible property, including any resulting loss of use; (e) other such damages, liabilities, or losses received or sustained by any person or persons during or on account of any operations connected with the construction of this Project including the warranty period; (f) the use of any improper materials; (g) any construction defect including both patent and latent defects; (h) failure to timely complete the work; (i) the violation of any federal, state, county or city laws, ordinances or regulations by Contractor, its subcontractors, agents, servants, independent contractors or employees; (j) the breach or alleged breach by Contractor of any term of the Agreement, including the breach or alleged breach of any warranty or guarantee.

12.2.2 Contractor agrees to indemnify, defend, and hold harmless the City, its officers, agents and employees, from all damages, liabilities, losses, claims, fines and fees, and from any and all suits and actions of every name and description that may be brought against City, its officers, agents and employees, on account of any claims, fees, royalties, or costs for any invention or patent and/or for the infringement of any and all copyrights or patent rights claimed by any person, firm, or corporation.

12.2.3 Contractor shall pay all claims, losses, liens, settlements or judgments of any nature in connection with the foregoing indemnifications including, but not limited to, reasonable attorney's fees and costs for trials and appeals.

12.2.4 If any Subcontractor, supplier, laborer, or materialmen of Contractor or any other person directly or indirectly acting for or through Contractor files or attempts to file a mechanic's or construction lien against the real property on which the work is performed or any part or against any personal property or improvements thereon or make a claim against any monies due or to become due from the City to Contractor or from Contractor to a Subcontractor, for or on account of any work, labor, services, material, equipment, or other items furnished in connection with the Work or any change order, Contractor agrees to satisfy, remove, or discharge such lien or claim at its own expense by bond, payment, or otherwise within five (5) days of the filing or from receipt of written notice from the City.

Additionally, until such time as such lien or claim is satisfied, removed or discharged by Contractor, all monies due to Contractor, or that become due to Contractor before the lien or claim is satisfied, removed or otherwise discharged, shall be held by City as security for the satisfaction, removal and discharge of such lien and any expense that may be incurred while obtaining the discharge. If Contractor shall fail to do so, City shall have the right, in

addition to all other rights and remedies provided by this Agreement or by law, to satisfy, remove, or discharge such lien or claim by whatever means City chooses at the entire and sole cost and expense of Contractor which costs and expenses shall, without limitation, include attorney's fees, litigation costs, fees and expenses and all court costs and assessments, and which shall be deducted from any amount owing to Contractor. In the event the amount due Contractor is less than the amount required to satisfy Contractor's obligation under this, or any other article, paragraph or section of this Agreement, the Contractor shall be liable for the deficiency due the City.

12.2.5 The Contractor and the City agree that Section 725.06(2), Florida Statutes controls the extent and limits of the indemnification and hold harmless provisions of this Agreement, if any, and that the parties waive any defects in the wording of this Article that runs afoul of said statutory section.

ARTICLE 13 – CHANGES IN THE WORK

- 13.1 Without invalidating this Agreement, the City may, at any time or from time to time order additions, deletions or revisions in the Work through the issuance of Change Orders. Upon receipt of a Change Order, the Contractor shall proceed with the Work involved. All Work shall be executed under the applicable conditions of the Contract Documents. If any Change Order causes an increase or decrease in the Contract Price or an extension or shortening of the Contract Time, an equitable adjustment will be made as provided in Article 14 or Article 15 on the basis of a claim made by either Party.
- 13.2 The Project Manager may authorize minor changes in the work not involving an adjustment in the Contract Price or the Contract Time, which are consistent with the overall intent of the Contract Documents. Such changes must be in writing and signed by the City and the Contractor.
- 13.3 If notice of any change affecting the general scope of the Work or change in the Contract Price is required by the provisions of any Bond to be given to the Surety, it will be the Contractor's responsibility to so notify the Surety, and the amount of each applicable Bond shall be adjusted accordingly. The Contractor shall furnish proof of such adjustment to the City.

ARTICLE 14 – CHANGE OF CONTRACT PRICE

Change of Contract Price, approved by City, shall be computed as follows:

- 14.1 Cost of the Work: The term "Cost of the Work" means the sum of all direct costs necessarily incurred and paid by Contractor in the proper performance of the Work. Except as otherwise may be agreed to in writing by the City, these costs shall be in amounts no higher than those prevailing in the City and shall include only the following items and shall not include any of the costs itemized in Paragraph 14.3:
- 14.1.1 Payroll costs for employees in the direct employ of the Contractor in the performance of the Work under schedules of job classifications agreed upon by the City and the Contractor. Payroll costs for employees not employed full time

on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus and cost of fringe benefits which shall include social security contributions, unemployment, excise and payroll taxes, worker's compensation, health and retirement benefits, bonuses, sick leave, vacation and applicable holiday pay.

14.1.2 Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage, and required suppliers and field services. All cash discounts, rebates and refunds and all returns from sale of surplus materials and equipment shall accrue to the City, and the Contractor shall make provisions so that they may be obtained.

14.1.3 Supplemental costs including the following:

- 14.1.3.1 Cost, including transportation and maintenance of all materials, supplies, equipment, machinery, appliances, office and temporary facilities at the site and hand tools not owned by the workers, which are consumed in the performance of the Work.
- 14.1.3.2 Rentals of all construction equipment and machinery and the parts whether rented from the Contractor or others in accordance with rental agreements approved by the City, and the costs of transporting, loading, unloading, installation, dismantling and removal. The rental of any such equipment, machinery or parts shall cease when the use is no longer necessary for the Work.
- 14.1.3.3 Sales, consumer, use or similar taxes related to the Work and for which the Contractor is liable, imposed by laws and regulations.
- 14.1.3.4 Royalty payments and fees for permits and licenses.
- 14.1.3.5 The cost of utilities, fuel and sanitary facilities at the Work site.
- 14.1.3.6 Minor expenses such as telegrams, long distance telephone calls, telephone service at the site, expressage and similar petty cash items in connection with the Work.
- 14.1.3.7 Cost of premiums for additional bonds and insurance required because of changes in the Work.

14.2 The Contract Price may only be increased by a Change Order when Work is modified in accordance with Article 13 and approved by the City in writing. Any claim for an increase in the Contract Price resulting from a Change Order shall be based on written notice delivered to the Project Manager within ten (10) days of the occurrence of the Change Order giving rise to the claim. Notice of the amount of the claim with supporting data shall be included in the Change Order and delivered within twenty (20) days of such occurrence unless Project Manager allows an additional period of time to ascertain accurate cost data. Any change in the Contract Price resulting from any such claim shall be incorporated in the Change Order. **IT IS EXPRESSLY AND SPECIFICALLY AGREED THAT ANY AND ALL CLAIMS FOR CHANGES TO THE CONTRACT PRICE SHALL BE WAIVED IF NOT SUBMITTED IN STRICT ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION.**

14.3 Not Included in the Cost of the Work: The term "cost of the Work" shall not include any of the following:

- 14.3.1 Payroll costs and other compensation of the Contractor's officers executives, principals (of partnership and sole proprietorships), general managers, engineers, architects, estimators, attorneys, auditor, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks and other personnel employed by the Contractor whether at the site or in the Contractor's principal or branch office for general administration of the work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 14.1.1, all of which are to be considered administrative costs covered by the Contractor's fee.
- 14.3.2 Expenses of the Contractor's principal and branch offices other than the Contractor's office at the site.
- 14.3.3 Any part of the Contractor's capital expenses, including interest on the Contractor's capital employed for the Work and charges against the Contractor for delinquent payments.
- 14.3.4 Cost of premiums for all bonds and for all insurance whether or not the Contractor is required by the Contract Documents to purchase and maintain the same.
- 14.3.5 Costs due to the negligence of the Contractor, any subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied and making good any damage to property.
- 14.3.6 Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraph 14.1
- 14.4 Basis of Compensation: The Contractor's compensation, allowed to the Contractor for overhead and profit, shall be determined as follows:
- 14.4.1 A mutually acceptable negotiated fee:
- 14.4.1.1 For costs incurred under Paragraphs 14.1.1 and 14.1.2, the Contractor's fee shall not exceed five percent (5%).
- 14.4.1.2 No fee shall be payable on the basis of costs itemized under Paragraphs 14.1.3.1, 14.1.3.2, 14.1.3.3, 14.1.3.4, 14.1.3.5, 14.1.3.6, 14.1.3.7, 14.3.1, 14.3.2, 14.3.3, 14.3.4, 14.3.5 and 14.3.6.
- 14.4.1.3 The amount of credit to be allowed by the Contractor to the City for any such change which results in a net decrease plus a deduction in the Contractor's fee by an amount equal to five percent (5%) for the net decrease.
- 14.4.1.4 When both additions and credits are involved in any one change the combined overhead and profit shall be figured on the basis of net increase if any, however, not to exceed five percent (5%) of the agreed compensation. Profit will not be paid on any Work not performed.

- 14.5 Cost Breakdown Required: Whenever the cost of any Work is to be determined pursuant to this Article, the Contractor will submit in form acceptable to the City an itemized cost breakdown together with supporting documentation. Whenever a change in the Work is to be based upon mutual acceptance of a lump sum, whether the amount is an addition, credit, or no-charge-in-cost, the Contractor shall submit an estimate substantiated by a complete itemized breakdown:
- 14.5.1 The breakdown shall list quantities and unit prices for materials, labor, equipment and other items of cost.
- 14.5.2 Whenever a change involves the Contractor and one (1) or more subcontractors and the change is an increase in the agreed compensation, the overhead and profit percentage for the Contractor and each subcontractor shall be itemized separately.
- 14.6 Time for the City to Approve Extra Work: Any Extra Work in an amount up to and not exceeding a cumulative amount of \$25,000 for a specific project can be approved by the City Manager and shall require a written Change Order proposal to be submitted to the Public Works Director for submittal and approval by the City Manager. Extra Work exceeding the cumulative amount of \$25,000 for a specific project must be approved by the City Commission and a written Change Order proposal must be submitted to the Public Works Director for submittal and approval by the City Manager and City Commission. No financial or time claim for delay to the project resulting from the Change Order approval process outlined above under Section 14.6 will be allowed.

ARTICLE 15 – CHANGE OF THE CONTRACT TIME

- 15.1 The Contract Time may only be changed by a Change Order. Any claim for an extension in the Contract Time shall be based on written notice delivered to the Project Manager within five (5) days of the occurrence of the event giving rise to the claim. Any change in the Contract Time resulting from any such claim shall be incorporated in a Change Order.
- 15.2 The Contract Time will be extended in an amount equal to time lost due to delays beyond the control of the Contractor if a claim is made there for as provided in Paragraph 15.1. Such delays shall include but not be limited to, acts or neglect by the City, or to fires, floods, labor disputes, epidemics, abnormal weather conditions, or acts of God.
- 15.3 All time limits stated in the Contract Documents are of the essence. The provisions of this Article 15 shall not exclude recovery for damages for delay by the Contractor.
- 15.4 Delays caused by or resulting from entities, contractors or subcontractors who are not affiliated with the CONTRACTOR (non-affiliated Contractors) shall not give rise to a claim by the CONTRACTOR for damages for increases in material and/or labor costs. Such entities, contractors and subcontractors include, but are not limited to, the City's contractors and subcontractors, Florida Power and Light Company, AT&T and Florida East Coast Railway, LLC.
- 15.5 Rights of Various Interests: Whenever work being done by City's forces or by other contractors is contiguous to or within the limits of work covered by this Contract, the

respective rights of the various interests involved shall be established by the Project Manager to secure the completion of the various portions of the work in general harmony.

ARTICLE 16 – LIQUIDATED DAMAGES

- 16.1 Upon failure of the Contractor to complete the Work within the time specified for completion, the Contractor shall pay to the City the sum of **Two Hundred and Fifty Dollars (\$ 250.00)** for each and every calendar day that the completion of the Work is delayed beyond the time specified in this Agreement for completion, as fixed and agreed liquidated damages and not as a penalty, so long as the delay is caused by the Contractor. Should an act of God or the acts or omissions of the City, its agents or representatives, in derogation to the terms of this Agreement cause the delay, the Contractor shall not be responsible for the delay nor liquidated damages. Liquidated damages are fixed and agreed upon between the Parties, recognizing the impossibility of precisely ascertaining the amount of damages that will be sustained by the City as a consequence of such delay and both parties desiring to obviate any question of dispute concerning the amount of damages and the cost and effect of the failure of the Contractor to complete the Work on time. Liquidated damages shall apply separately to each portion of the Work for which a time of completion is given. The City shall have the right to deduct from or retain any compensation which may be due or which may become due and payable to the Contractor the amount of liquidated damages, and if the amount retained by the City is insufficient to pay in full such liquidated damages, the Contractor shall pay all liquidated damages in full. The Contractor shall be responsible for reimbursing the City, in addition to liquidated damages or other damages for delay, for all costs of engineering, architectural fees, and inspection and other costs incurred in administering the construction of the Project beyond the completion date specified or beyond an approved extension of time granted to the Contractor whichever is later. Delays caused by or resulting from entities, contractors or subcontractors who are not affiliated with the Contractor shall not give rise to a claim by Contractor for damages for increase in material and/or labor costs. Such entities, contractors and subcontractors include, but are not limited to, the City's contractors and subcontractors, Florida Power and Light Company, AT&T, and Florida East Coast Railway, LLC.
- 16.2 **No Extended Damages:** For other and additional good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the Contractor covenants and agrees that in the event of any delay of construction or for any reason, allegation or claim, and notwithstanding the reason of the delay, reason, claim or allegation or who caused them or the construction delay or whether they were caused by the City, that there will be no entitlement to Contractor to or for any direct or indirect financial damages or losses for extended corporate overhead impact, extended project overhead impacts, project support services, mobilization or demobilization or by whatever other label or legal concept or theory and types of names or labels or basis such claims may have, or any business damages or losses of whatever type or nature, and Contractor hereby waives any right to make any such claim or claims. This provision will have application and effect when construction delays are anticipated and agreed upon by both the City and the Contractor.

ARTICLE 17 – SUSPENSION OF WORK AND TERMINATION

- 17.1 City May Suspend Work: The City may, at any time and without cause, suspend the Work or any portion of the Work for a period of not more than ninety (90) days by notice in writing to the Contractor which shall fix the date on which Work shall be resumed. The Contractor shall resume the Work on the date fixed. The Contractor will be allowed an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to any suspension, if the Contractor makes a claim as provided in Articles 14 and 15.
- 17.2 City's Right to Terminate Contract: The City may terminate this Agreement upon fifteen (15) calendar days' written notice upon the occurrence of any one or more of the following events:
- 17.2.1 If the Contractor commences a voluntary case or a petition is filed against the Contractor, under any chapter of the Bankruptcy Code, or if the Contractor takes any equivalent or similar action by filing a petition or otherwise under any other federal or state law in effect at such time relating to the bankruptcy or insolvency.
- 17.2.2 If the Contractor makes a general assignment for the benefit of creditors.
- 17.2.3 If a trustee, receiver, custodian or agent of the Contractor is appointed under applicable law or under Contract, whose appointment or authority to take charge of property of the Contractor is for the purpose of enforcing a lien against such property or for the purpose of general administration of such property for the benefit of the Contractor's creditors.
- 17.2.4 If Contractor fails to begin the Work within fifteen (15) calendar days after the Project Initiation Date, or fails to perform the Work with sufficient workers and equipment or with sufficient materials to ensure the prompt completion of the Work, or shall perform the Work unsuitably, or cause it to be rejected as defective and unsuitable, or shall discontinue the prosecution of the Work pursuant to the accepted schedule or if Contractor shall fail to perform any material term set forth in the Contract Documents, or from any other cause whatsoever shall not carry on the Work in an acceptable manner, Project Manager may give notice in writing to Contractor and its Surety of such delay, neglect or default, specifying the same.
- 17.2.5 If the Contractor repeatedly fails to make prompt payments to subcontractors or for labor, material or equipment.
- 17.2.6 If the Contractor repeatedly disregards proper safety procedures.
- 17.2.7 If the Contractor disregards any local, state or federal laws or regulations.
- 17.2.8 If the Contractor otherwise violates any provisions of this Agreement.
- 17.3 If Contractor, within a period of ten (10) calendar days after such notice, shall not proceed in accordance therewith, the City may exclude the Contractor from the Work

site and take the prosecution of the Work out of the hands of the Contractor, and take possession of the Work and all of the Contractor's tools, appliances, construction equipment and machinery at the site and use them without liability to the City for trespass or conversion, incorporate in the Work all materials and equipment stored at the site or for which the City has paid the Contractor but which are stored elsewhere, and finish the Work as the City may deem expedient. In this instance, the Contractor shall not be entitled to receive any further compensation until the Work is finished.

17.3.1 If after notice of termination of Contractor's right to proceed, it is determined for any reason that Contractor was not in default, the rights and obligations of City and Contractor shall be the same as if the notice of termination had been issued pursuant to the Termination for Convenience clause as set forth in Section 17.5 below.

17.3.2 Upon receipt of Notice of Termination pursuant to Sections 17.2 or 17.5, Contractor shall promptly discontinue all affected work unless the Notice of Termination directs otherwise and deliver or otherwise make available to City all data, drawings, specifications, reports, estimates, summaries and such other information as may have been required by the Contract Documents whether completed or in process.

17.4 If the Contractor commits a default due to its insolvency or bankruptcy, the following shall apply:

17.4.1 Should this Agreement be entered into and fully executed by the parties, funds released and the Contractor (Debtor) files for bankruptcy, the following shall occur:

17.4.1.1 In the event the Contractor files a voluntary petition under 11 U.S.C. 301 or 302, or an order for relief is entered under 11 U.S.C. 303, the Contractor shall acknowledge the extent, validity, and priority of the lien recorded in favor of the City. The Contractor further agrees that in the event of this default, the City shall, at its option, be entitled to seek relief from the automatic stay pursuant to 11 U.S.C. 362. The City shall be entitled to relief from the automatic stay pursuant to 11 U.S.C. 362(d) (1) or (d) (2), and the Contractor agrees to waive the notice provisions in effect pursuant to 11 U.S.C. 362 and any applicable Local Rules of the United States Bankruptcy Court. The Contractor acknowledges that such waiver is done knowingly and voluntarily.

17.4.1.2 Alternatively, in the event the City does not seek stay relief, or if stay relief is denied, the City shall be entitled to monthly adequate protection payments within the meaning of 11 U.S.C. 361. The monthly adequate protection payments shall each be in an amount determined in accordance with the Note and Mortgage executed by the Contractor in favor of the City.

17.4.1.3 In the event the Contractor files for bankruptcy under Chapter 13 of Title 11, United States Code in addition to the foregoing provisions, the Contractor agrees to cure any amounts in arrears over a period

not to exceed twenty-four (24) months from the date of the confirmation order, and such payments shall be made in addition to the regular monthly payments required by the Note and mortgage. Additionally, the Contractor shall agree that the City is over secured and, therefore, entitled to interest and attorney's fees pursuant to 11 U.S.C. 506(b). Such fees shall be allowed and payable as an administrative expense. Further, in the event the Contractor has less than five (5) years of payments remaining on the Note, the Contractor agrees that the treatment afforded to the claim of the City under any confirmed plan of reorganization shall provide that the remaining payments shall be satisfied in accordance with the Note, and that the remaining payments or claim shall not be extended or amortized over a longer period than the time remaining under the Note.

17.4.2 Should this Agreement be entered into and fully executed by the parties, and the funds have not been forwarded to Contractor, the following shall occur:

17.4.2.1 In the event the Contractor files a voluntary petition pursuant to 11 U.S.C. 301 or 302, or an order for relief is entered under 11 U.S.C. 303., the Contractor acknowledges that the commencement of a bankruptcy proceeding constitutes an event of default under the terms of this Agreement. Further, the Contractor acknowledges that this Agreement constitutes an executory contract within the meaning of 11 U.S.C. 365. The Contractor acknowledges that this Agreement is not capable of being assumed pursuant to 11 U.S.C. 365(c)(2), unless the City expressly consents in writing to the assumption. In the event the City consents to the assumption, the Contractor agrees to file a motion to assume this Agreement within ten (10) days after receipt of written consent from the City, regardless of whether the bankruptcy proceeding is pending under Chapter 7, 11, or 13 of Title 11 of the United States Code. The Contractor further acknowledges that this Agreement is not capable of being assigned pursuant to 11 U.S.C. 365(b)(1).

17.5 Termination for Convenience: This Contract may be terminated for convenience in writing by City upon thirty (30) days written notice to Contractor (delivered by certified mail, return receipt requested) of intent to terminate and the date on which such termination becomes effective. In such case, Contractor shall be paid for all work executed and expenses incurred prior to termination in addition to termination settlement costs reasonably incurred by Contractor relating to commitments which had become firm prior to the termination. Payment shall include reasonable profit for work/services satisfactorily performed. No payment shall be made for profit for work/services which have not been performed.

17.6 Where the Contractor's service have been so terminated by the City, the termination shall not affect any rights of the City against the Contractor then existing or which may thereafter accrue. Any retention or payment of moneys due the Contractor by the City will not release the Contractor from liability.

- 17.7 The Contractor has no right, authority or ability to terminate the Work except for the wrongful withholding of any payments due the Contractor from the City.

ARTICLE 18 – DISPUTE RESOLUTION

- 18.1 Resolution of Disputes: Questions, claims, difficulties and disputes of whatever nature which may arise relative to the technical interpretation of the Contract Documents and fulfillment of this Agreement as to the character, quality, amount and value of any work done and materials furnished, or proposed to be done or furnished under or, by reason of, the Contract Documents which cannot be resolved by mutual agreement of Contract Administrator and Contractor shall be submitted to the Consultant for resolution. When either party has determined that a disputed question, claim, difficulty or dispute is at an impasse, that party shall notify the other party in writing and submit the question, claim, difficulty or dispute to the Consultant for resolution. The parties may agree to a proposed resolution at any time without the involvement and determination of the Consultant.
- 18.1.1 Consultant shall notify Contract Administrator and Contractor in writing of Consultant's decision within twenty-one (21) calendar days from the date of the submission of the question, claim, difficulty or dispute, unless Consultant requires time to gather information or allow the parties to provide additional information.
- 18.1.2 In the event the determination of a dispute by the Consultant under this Article is unacceptable to any of the parties hereto, the party objecting to the determination must notify the other party and the City Manager, in writing within ten (10) days after receipt of the determination. The notice must state the basis of the objection and the proposed resolution. Final resolution of such dispute shall be made by the City Manager. The City Manager's decision shall be final and binding on the parties.
- 18.1.3 All non-technical administrative disputes (such as billing and payment) shall be determined by Contract Administrator.
- 18.1.4 During the pendency of any dispute and after a determination thereof, Contractor, Consultant, and Contract Administrator shall act in good faith to mitigate any potential damages including utilization of construction schedule changes and alternate means of construction. During the pendency of any dispute arising under this Agreement, other than termination herein, Contractor shall carry on the Work and adhere to the progress schedule. The Work shall not be delayed or postponed pending resolution of any disputes or disagreements.
- 18.1.5 For any disputes which remain unsolved, within sixty (60) calendar days after Final Completion of the Work, the parties shall participate in mediation to address all unresolved disputes. A mediator shall be mutually agreed upon by the parties. Should any objection not be resolved in mediation, the parties retain all their legal rights and remedies under applicable law. If a party objecting to a determination, fails to comply in strict accordance with the

requirements of this Article, said party specifically waives all of its rights provided hereunder, including its rights and remedies under applicable law.

ARTICLE 19 – NOTICES

19.1 All notices required by any of the Contract Documents shall be in writing and shall be deemed delivered upon mailing by certified mail, return receipt requested to the following:

To the City:

City Manager
City of Fort Lauderdale
100 North Andrews Avenue
Fort Lauderdale, Florida 33301

With copy to the:

Project Manager
City of Fort Lauderdale
100 North Andrews Avenue
Fort Lauderdale, Florida 33301

With a copy to:

City Attorney
City of Fort Lauderdale
100 North Andrews Avenue
Fort Lauderdale, Florida 33301

To the Contractor:

Mr. Juan Carlos Jurado
C/O Continental Construction USA, LLC
1395 Brickell Avenue, Suite #740
Miami, Florida 33131

ARTICLE 20 – LIMITATION OF LIABILITY

20.1 The City desires to enter into this Agreement only if in so doing the City can place a limit on the City's liability for any cause of action arising out of this Agreement, so that the City's liability for any breach never exceeds the sum of \$1,000. For other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Contractor expresses its willingness to enter into this Agreement with the knowledge that the Contractor's recovery from the City to any action or claim arising from the Agreement is limited to a maximum amount of \$1,000, which amount shall be reduced by the amount actually paid by the City to the Contractor pursuant to this Agreement, for any action or claim arising out of this Agreement. Nothing contained in this paragraph or elsewhere in this Agreement is in any way intended

either to be a waiver of the limitation placed upon the City's liability as set forth in Section 768.28, Florida Statutes, or to extend the City's liability beyond the limits established in said Section 768.28; and no claim or award against the City shall include attorney's fees, investigative costs, expert fees, suit costs or pre-judgment interest.

- 20.2 No Extended Damages: For other and additional good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the Contractor covenants and agrees that in the event of any delay of construction or for any reason, allegation or claim, and notwithstanding the reason of the delay, reason, claim or allegation or who caused them or the construction delay or whether they were caused by the City, that there will be no entitlement to Contractor to or for any direct or indirect financial damages or losses for extended corporate overhead impact, extended project overhead impacts, project support services, mobilization or demobilization or by whatever other label or legal concept or theory and types of names or labels or basis such claims may have, or any business damages or losses of whatever type or nature, and Contractor hereby waives any right to make any such claim or claims. This provision will have application and effect when construction delays are anticipated and agreed upon by both the City and the Contractor.

ARTICLE 21 – GOVERNING LAW

- 21.1 This Agreement shall be governed by the laws of the State of Florida. Both Parties agree that the courts of the State of Florida shall have jurisdiction of any claim arising in connection with this Agreement. Venue for any claim, objection or dispute arising out of this Agreement shall be in Broward County, Florida. **By entering into this Contract, Contractor and City hereby expressly waive any rights either party may have to a trial by jury or any civil litigation related to, or arising out of the Project. Contractor shall specifically bind all subcontractors to the provisions of this Contract.**

ARTICLE 22 – MISCELLANEOUS

- 22.1 The duties and obligations imposed by this Agreement and the rights and remedies available to the parties and, in particular but without limitation, the warranties, guaranties and obligations imposed upon the Contractor and all of the rights and remedies available to the City, are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by laws or regulations, by special warranty or guarantee or by other provisions of the Contract Documents, and the provisions of this Paragraph will be as effective as if repeated specifically in the Contract Documents, and the provisions of this Paragraph will survive final payment and termination or completion of this Agreement.
- 22.2 The Contractor shall not assign or transfer this Agreement or its rights, title or interests. The obligations undertaken by the Contractor pursuant to this Agreement shall not be delegated or assigned to any other person or firm. Violation of the terms of this Paragraph shall constitute a material breach of Agreement by the Contractor

and the City any, at its discretion, cancel this Agreement and all rights, title and interest of the Contractor which shall immediately cease and terminate.

- 22.3 The Contractor and its employees, volunteers and agents shall be and remain an independent contractors and not agents or employees of the City with respect to all of the acts and services performed by and under the terms of this Agreement. This Agreement shall not in any way be constructed to create a partnership, association or any other kind of joint undertaking or venture between the Parties.
- 22.4 The City reserves the right to audit the records of the Contractor relating in any way to the Work to be performed pursuant to this Agreement at any time during the performance and term of this Agreement and for a period of three (3) years after completion and acceptance by the City. If required by the City, the Contractor agrees to submit to an audit by an independent certified public accountant selected by the City. The Contractor shall allow the City to inspect, examine and review the records of the Contractor at any and all times during normal business hours during the term of this Agreement.
- 22.5 The remedies expressly provided in this Agreement to the City shall not be deemed to be exclusive but shall be cumulative and in addition to all other remedies in favor of the City now or later existing at law or in equity.
- 22.6 Should any part, term or provisions of this Agreement be decided by the courts to be invalid, illegal or in conflict with any state or federal law, the validity of the remaining portion or provision shall not be affected.
- 22.7 Prohibition Against Contracting With Scrutinized Companies: Subject to *Odebrecht Construction, Inc., v. Prasad*, 876 F.Supp.2d 1305 (S.D. Fla. 2012), *affirmed*, *Odebrecht Construction, Inc., v. Secretary, Florida Department of Transportation*, 715 F.3d 1268 (11th Cir. 2013), with regard to the "Cuba Amendment," the Contractor certifies that it is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes (2019), that it is not engaged in a boycott of Israel, and that it does not have business operations in Cuba or Syria, as provided in section 287.135, Florida Statutes (2019), as may be amended or revised. The City may terminate this Agreement at the City's option if the Contractor is found to have submitted a false certification as provided under subsection (5) of section 287.135, Florida Statutes (2019), as may be amended or revised, or been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes (2019), or is engaged in a boycott of Israel or has been engaged in business operations in Cuba or Syria, as defined in Section 287.135, Florida Statutes (2019), as may be amended or revised.
- 22.8 Public Entity Crimes: In accordance with the Public Crimes Act, Section 287.133, Florida Statutes, a person or affiliate who is a contractor, consultant or other provider, who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to the City, may not submit a bid on a contract with the City for the construction or repair of a

public building or public work, may not submit bids on leases of real property to the City, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with the City, and may not transact any business with the City in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of thirty-six (36) months from the date of being placed on the convicted vendor list. Violation of this section by Contractor shall result in cancellation of the City purchase and may result in Contractor debarment.

22.9 Attorney Fees: If CITY or CONSULTANT incurs any expense in enforcing the terms of this Agreement through litigation, the prevailing party in that litigation shall be reimbursed for all such costs and expenses, including but not limited to court costs, and reasonable attorney fees incurred during litigation.

22.10 Public Records:

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT PRRCONTRACT@FORTLAUDERDALE.GOV, 954-828-5002, CITY CLERK'S OFFICE, 100 N. ANDREWS AVENUE, FORT LAUDERDALE, FLORIDA 33301.

Contractor shall:

1. Keep and maintain public records required by the City in order to perform the service.
2. Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes (2019), as may be amended or revised, or as otherwise provided by law.
3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of this contract if the Contractor does not transfer the records to the City.
4. Upon completion of the Contract, transfer, at no cost, to the City all public records in possession of the Contractor or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion of this Contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of this Contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

CITY

IN WITNESS OF THE FOREGOING, the parties have set their hands and seals the day and year first written above.

CITY OF FORT LAUDERDALE, a municipal corporation of the State of Florida

By: 
CHRISTOPHER J. LAGERBLOOM
City Manager


(CORPORATE SEAL)



ATTEST:

By: 
JEFFREY A. MODARELLI
City Clerk

Approved as to Legal Form:

By: 
RHONDA MONTOYA HASAN
Assistant City Attorney

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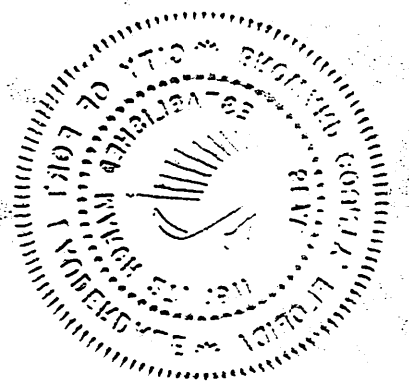
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CONTRACTOR

WITNESSES:

CONTINENTAL CONSTRUCTION USA, LLC,
a Florida limited liability company

Juan R. Pizarro

[Signature]

BY: _____
Juan Carlos Jurado, Manager

Juan R. Pizarro

Print Name

[Signature]

Luis Sanchez

Print Name

ATTEST:

[Signature]

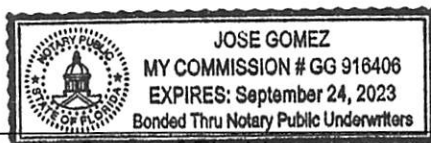
Print Name: Shankar Sanake
Title: Project Engineer

(CORPORATE SEAL)

STATE OF FLORIDA:
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this 10 day
of January, 2020, by Juan Carlos Jurado, Manager of Continental Construction
USA, LLC, a Florida limited liability company.

SEAL



Notary Public, State of Florida
(Signature of Notary Public)

[Signature]

(Print, Type, or Stamp Commissioned Name
of Notary Public)

Personally Known _____ OR Produced Identification _____
Type of Identification Produced _____



JOSE GOMES
MY COMMISSION # 00 31408
EXPIRES: September 24, 2023
Board of the Holy Family Parish, Lafayette, La.

Bid #12242 River Oaks Preserve Project P11419

Lot: Base Bid

Item #	Item	Qty	Unit	Continental Construction U: Shoreline Foundation Inc		ATL Diversified Ind		Sagaris Corp.		MBR CONSTRUCTION INC.		West Construction Inc.			
				Price	Total	Price	Total	Price	Total	Price	Total	Price	Total	Price	Total
12242-493- General Co		1	lump sum	190000	190000	169042	169042	70000	70000	210000	210000	237649	237649	514000	514000
12242-493- Clearing Gr		29040	square yar	2.9	84216	5	145200	7.2	209088	4	116160	2.67	77536.8	3	87120
12242-493- Excavation		40440	cubic yard	8.2	331608	7	283080	9.5	384180	12	485280	24.7	998868	12	485280
12242-493- Embankme		6284	cubic yard	6.3	39589.2	3	18852	8	50272	15	94260	9.6	60326.4	6	37704
12242-493- Muck		9500	cubic yard	5	47500	22	209000	16	152000	15	142500	23.34	221730	40	380000
12242-493- Ditch Bottc		1	each	6900	6900	4500	4500	35000	35000	8000	8000	11160	11160	12000	12000
12242-493- U-Type Enc		2	each	5400	10800	2000	4000	28000	56000	14000	28000	7080	14160	4500	9000
12242-493- 19 inch x 3i		81	linear foot	90	7290	110	8910	550	44550	120	9720	166	13446	90	7290
12242-493- 24 inch Dia		1	each	14500	14500	6000	6000	18000	18000	15000	15000	9720	9720	6000	6000
12242-493- 19 inch x3C		1	each	13600	13600	7000	7000	17000	17000	15000	15000	10200	10200	6000	6000
12242-493- 24 inch Dia		50	linear foot	95	4750	125	6250	110	5500	160	8000	144	7200	65	3250
12242-493- Proposed E		86	linear foot	117	10062	150	12900	250	21500	160	13760	162	13932	90	7740
12242-493- Proposed E		2	each	8970	17940	6000	12000	14000	28000	3000	6000	4800	9600	3500	7000
12242-493- Proposed E		1	each	5400	5400	2000	2000	15000	15000	3000	3000	5400	5400	2750	2750
12242-493- Chainlink F		3181	linear foot	24	76344	30	95430	22	69982	40	127240	26.02	82769.62	29	92249
12242-493- Existing Tre		499	each	290	144710	44	21956	375	187125	250	124750	241	120259	120	59880
12242-493- Existing Tre		25	each	1000	25000	300	7500	1200	30000	2000	50000	6403.2	160080	1603	40075
12242-493- Pickerelwe		5000	each	0.67	3350	0.75	3750	2	10000	0.8	4000	1.5	7500	0.9	4500
12242-493- Duck potat		5000	each	0.67	3350	0.75	3750	2	10000	0.8	4000	1.5	7500	0.9	4500
12242-493- Arrow arur		2400	each	0.67	1608	0.75	1800	5	12000	0.8	1920	1.5	3600	0.9	2160
12242-493- Fireflag (Be		2260	each	1.43	3231.8	0.75	1695	2	4520	1.59	3593.4	1.5	3390	1.91	4316.6
12242-493- Swamp lily		3200	each	0.67	2144	0.75	2400	5.5	17600	0.74	2368	1.5	4800	0.9	2880
12242-493- Bald Cypre		80	each	38.7	3096	45	3600	100	8000	43	3440	52.2	4176	52	4160
12242-493- Slash pine		70	each	38.7	2709	45	3150	100	7000	43	3010	52.2	3654	52	3640
12242-493- Cabbage p:		150	each	360	54000	345	51750	425	63750	400	60000	39.6	5940	240	36000
12242-493- Fakahatche		180	each	4.95	891	6.5	1170	6.5	1170	5.5	990	9	1620	6.6	1188
12242-493- Sand cordg		200	each	4.95	990	6.5	1300	7.5	1500	5.5	1100	9	1800	6.6	1320
12242-493- Firebush (1		600	each	9	5400	7.5	4500	7.5	4500	6.5	3900	9	5400	7.8	4680
12242-493- Wild coffee		1220	each	6.3	7686	7.5	9150	13.75	16775	7	8540	9	10980	8.3	10126
12242-493- Muhly gras		300	each	0.9	270	1	300	2.2	660	1	300	5.4	1620	1.2	360
12242-493- Giant bulru		1060	each	1.85	1961	2	2120	4	4240	2.5	2650	1.5	1590	2.5	2650
12242-493- White wat		3200	each	1.66	5312	2	6400	10	32000	1.85	5920	2.58	8256	2.25	7200
12242-493- Cocoplum		850	each	6.3	5355	7.5	6375	6.5	5525	7	5950	9	7650	8.4	7140
12242-493- Fakahatche		200	each	9	1800	6	1200	6.5	1300	5.5	1100	9	1800	6.75	1350
12242-493- Firebush (1		850	each	5.85	4972.5	7	5950	7.5	6375	6.5	5525	9	7650	7.25	6162.5
12242-493- Boardwalk		5355	square foot	50	267750	70	374850	75	401625	57	305235	54.68	292811.4	85.5	457852.5
12242-493- Timber Pile		200	each	390	78000	1000	200000	375	75000	1550	310000	970.12	194024	2050	410000
Subtotal				\$ 1,484,085.50		\$ 1,698,830.00		\$ 2,076,737.00		\$ 2,190,211.40		\$ 2,629,798.22		2729523.6	
Allowance				39,000		39,000		39,000		39,000		39,000		39,000	
Grand Total				\$ 1,523,085.50		\$ 1,737,830.00		\$ 2,115,737.00		\$ 2,229,211.40		\$ 2,668,798.22		\$ 2,768,523.60	

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0.00 *

190,000.00 +
84,216.00 +
331,608.00 +
39,589.20 +
47,500.00 +
6,900.00 +
10,800.00 +
7,290.00 +
14,500.00 +
13,600.00 +
4,750.00 +
10,062.00 +
17,940.00 +
5,400.00 +
76,344.00 +
144,710.00 +
25,000.00 +
3,350.00 +
3,350.00 +
1,608.00 +
3,231.80 +
2,144.00 +
3,096.00 +
2,709.00 +
54,000.00 +
891.00 +
990.00 +
5,400.00 +
7,686.00 +
270.00 +
1,961.00 +
5,312.00 +
5,355.00 +
1,800.00 +
4,972.50 +
267,750.00 +
78,000.00 +
39,000.00 +

038

1,523,085.50 *

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SURETY BOND
IN COMPLIANCE WITH AND INCORPORATING THE PROVISIONS OF SECTION 255.05, FLORIDA STATUTES

THIS IS A SURETY BOND given by Continental Construction USA, LLC the "Contractor" as principal, referred to in this Bond as "Contractor" and North American Specialty Insurance Company as "Surety," and they represent by this instrument that they are bound to the CITY OF FORT LAUDERDALE, a municipal corporation of the State of Florida ("City"), in the sum of \$1,523,086.00 One Million Five Hundred Twenty Three Thousand Eighty Six Dollars and no cents for the payment of which, to be made to the City of Fort Lauderdale, Florida, they jointly and severally, bind themselves and each of their heirs, executors, administrators, successors and assigns.

Owner Name: CITY OF FORT LAUDERDALE
a municipal corporation of the State of Florida

Owner Address and Telephone: City Hall, Public Works Department
100 N. Andrews Avenue
Fort Lauderdale, Florida 33301
(954) 828-5772

Bond No.: 2251237

Contractor Name, Address, Telephone: Mr. Juan Carlos Jurado
Continental Construction USA, LLC
1395 Brickell Ave Suite 740
Miami, Florida 33131

Surety Company, Address, Telephone North American Specialty Insurance Company
1200 Main Street, Suite 800
Kansas City, MO 64105
(913) 676-5200

City Project No./Bid Bo.: P11419 – Bid No. 12242-493

Name of Project: River Oaks Preserve

Project Location: City of Fort Lauderdale, FL 33301

Legal Description and Street Address THE R.B.F. PLAT 155-35 B PARCEL 'A'

Description of Work The work to be accomplished under this contract consists of the construction of a preservation park for the public, featuring wetlands and an elevated boardwalk, that incorporates a historic CSX bascule bridge, all in conformance with the Contract Documents.

"Contractor" is bound by an instrument in writing dated the 7th day of January, 2020, by which Contractor has contracted with the City of Fort Lauderdale, Florida, to furnish labor, tools, and materials for the Project referenced and described above, together with all work incidental thereto, as fully set out in the plans, specifications and details on file in the Office of the City Engineer of the City.

Notice required by Section 255.05(6), Florida Statutes: "This bond is given to comply with Section 255.05 Florida Statutes, and any action instituted by a claimant under this bond for payment must be in accordance with the notice and time limitation provisions in Section 255.05(2), Florida Statutes."

The condition of the above obligation is such that if the above bound "Contractor," or its successor or assigns shall in good faith and in good, sufficient, substantial and workmanlike manner, perform the work and comply with the conditions of the contract, including payment of penalties, in strict accordance with the terms and

provisions stipulated in it and shall indemnify and hold harmless the City against and for payments of any and all damages that may happen to persons or property by reason of excavations, embankments, obstructions and all other work in streets, alleys or places in connection with the work, or arising out of any act, neglect or omission of the "Contractor" or its agents, servants, or employees with relation to the work, and shall indemnify and hold harmless the City against and from all suits and acts of every nature and description arising out of any claims by patentees of any process connected with the work agreed to be performed under the contract, or of any materials used upon the work, and pay all costs accruing if the contract is cancelled and a new contract for finishing the work is let, and all other expenses lawfully chargeable to the "Contractor," then this agreement shall be null and void; otherwise it is to remain in full force and effect, but it is expressly provided, understood and agreed that if the "Contractor" or its subcontractors fail to duly and promptly pay for any labor, material, or other supplies used by "Contractor" or any of its subcontractors in the performance of the work to be done, or the Contractor defaults in its Contract with the City, the "Surety" will promptly pay to all claimants, as defined in Section 255.05(1), Florida Statutes, the same in an amount not exceeding the sum specified in this bond, together with interest at the rate of fifteen percent (15%) per annum, and the Surety hereby stipulates and agrees that no change, extension, reduction, alteration or addition to the terms of the contract or the plans, details and specifications shall in any way affect the obligations of this bond.

Whenever Contractor shall be, and is declared by the City to be in default under the contract, the City may proceed to cancel the contract and award a new contract for finishing the work or order the Surety to promptly remedy the default by obtaining a bid or bids for completing the contract in accordance with the original contract terms and conditions. Upon the determination by the City of the lowest responsible bidder, the Surety shall complete all work and pay the full cost of completion, less previous payments.

This Bond is effective for one (1) year after completion and acceptance of the work, with liability equal to twenty-five percent (25%) of the contract price, and is so conditioned that the "Contractor" will, at its own expense, correct any defective or faulty work or material which appears within one (1) year after completion of the work and final payment, upon notification by the City.

IN WITNESS WHEREOF, the above "Contractor" has signed this Agreement, and the "Surety" has caused this Agreement to be signed in its name by its Attorney-in-Fact, and its corporate seal affixed, this 7th day of January, 2020.

Signed, sealed and delivered in the presence of:

(Witness) Signature

LUIS SANCHEZ ARABCA

(Witness) Print Name

Torre Taylor Dos Santos

(Witness) Signature

Torre Taylor Dos Santos

Vivian Santiago

(Witness) Print Name

Vivian Santiago

Continental Construction USA, LLC

(SEAL)

Juan Carlos Juarez / SA

Print Name and Title

(SEAL)

North American Specialty Insurance Company SURETY:

Michael Marino

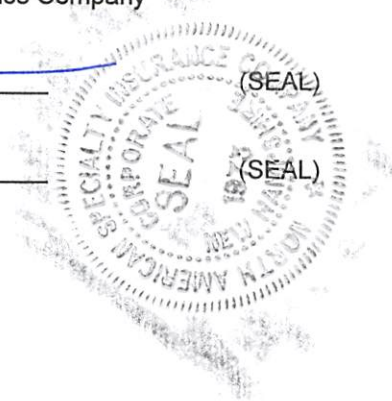
Local Agent

(SEAL)

Michael Marino, Attorney-In-Fact

Print Name and Title

(SEAL)



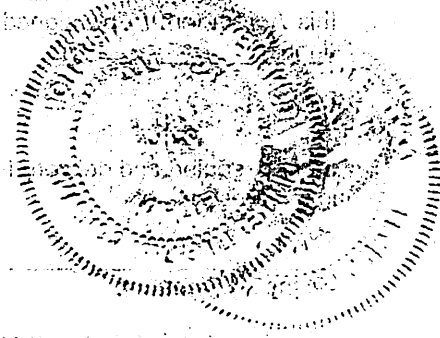
The undersigned hereby certifies that the above-named person is a resident of the State of New York, and is qualified to hold office as a Justice of the Peace in the Town of ...
 I am a Justice of the Peace in the Town of ...
 My commission expires on the ... day of ... 19...
 Witness my hand and seal at the Town of ... on the ... day of ... 19...

I hereby certify that the above-named person is a resident of the State of New York, and is qualified to hold office as a Justice of the Peace in the Town of ...
 I am a Justice of the Peace in the Town of ...
 My commission expires on the ... day of ... 19...
 Witness my hand and seal at the Town of ... on the ... day of ... 19...

I hereby certify that the above-named person is a resident of the State of New York, and is qualified to hold office as a Justice of the Peace in the Town of ...
 I am a Justice of the Peace in the Town of ...
 My commission expires on the ... day of ... 19...
 Witness my hand and seal at the Town of ... on the ... day of ... 19...

I hereby certify that the above-named person is a resident of the State of New York, and is qualified to hold office as a Justice of the Peace in the Town of ...
 I am a Justice of the Peace in the Town of ...
 My commission expires on the ... day of ... 19...
 Witness my hand and seal at the Town of ... on the ... day of ... 19...

(Signature)

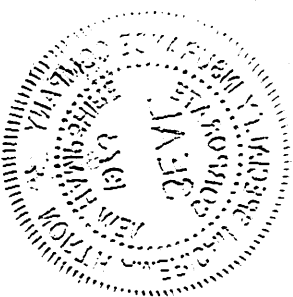


(Text)

(Signature)

(Text)

(Text)



(Text)

(Text)

(Text)

(Text)



Broward County



Transaction #: 10513752

Receipt #: 8126831

BROWARD COUNTY BOARD OF COUNTY COMMISSIONERS

Records, Taxes & Treasury Division
115 South Andrews Avenue Rm 114
Fort Lauderdale, FL 33301

Tel. (954) 831-4000 Fax (954) 357-7267

http://www.Broward.org/RecordsTaxesTreasury

Cashier Date: 1/8/2020 10:59:13AM

Print Date: 1/8/2020 10:59:25AM

SHANKAR SANAKE
1809 SW 107TH AVE
APT 2707
MIAMI, FL 33165

Payment Summary

Table with 2 columns: Description, Amount. Rows: Total Fees \$37.50, Total Payments \$37.50, Balance \$0.00

1 Payment

Credit \$37.50

Credit Card Convenience Fee 35.50 2.00

1 Official Record

It is the responsibility of our customers to inspect their recording receipt, to verify the accuracy of the information keyed. Should you find a mistake, please contact us immediately and the correction will be made within 24 business hours after notification. Submit corrections to: records@broward.org

Public Construction Security

Instrument #: 116274877 Date: 1/8/2020 10:59:12AM

Contractor & Surety: JURADO, JUAN CARLOS
CONTINENTAL CONSTRUCTION USA LLC
NORTH AMERICAN SPECIALTY INSURANCE COMPANY
Owner: FORT LAUDERDALE CITY

Recording @ 1st=\$10 Add'l=\$8.50 ea. 3 27.00

APPROVAL FEE - SURETY 1 8.50

SWISS RE CORPORATE SOLUTIONS

NORTH AMERICAN SPECIALTY INSURANCE COMPANY
WASHINGTON INTERNATIONAL INSURANCE COMPANY
WESTPORT INSURANCE CORPORATION GENERAL POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, THAT North American Specialty Insurance Company, a corporation duly organized and existing under laws of the State of New Hampshire, and having its principal office in the City of Kansas City, Missouri and Washington International Insurance Company a corporation organized and existing under the laws of the State of New Hampshire and having its principal office in the City of Kansas City, Missouri, and Westport Insurance Corporation, organized under the laws of the State of Missouri, and having its principal office in the City of Kansas City, Missouri does hereby make, constitute and appoint:

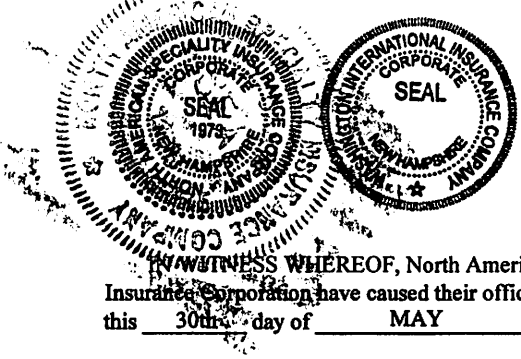
MICHAEL MARINO, RICARDO DAVILA, CLAY RIVES, WILL GRIFFIN, TORRE TAYLOR and KRYSTAL STRAVATO
JOINTLY OR SEVERALLY

Its true and lawful Attorney(s)-in-Fact, to make, execute, seal and deliver, for and on its behalf and as its act and deed, bonds or other writings obligatory in the nature of a bond on behalf of each of said Companies, as surety, on contracts of suretyship as are or may be required or permitted by law, regulation, contract or otherwise, provided that no bond or undertaking or contract or suretyship executed under this authority shall exceed the amount of: ONE HUNDRED TWENTY FIVE MILLION (\$125,000,000.00) DOLLARS

This Power of Attorney is granted and is signed by facsimile under and by the authority of the following Resolutions adopted by the Boards of Directors of North American Specialty Insurance Company and Washington International Insurance Company at meetings duly called and held on March 24, 2000 and Westport Insurance Corporation by written consent of its Executive Committee dated July 18, 2011.

RESOLVED, that any two of the President, any Senior Vice President, any Vice President, any Assistant Vice President, the Secretary or any Assistant Secretary be, and each or any of them hereby is authorized to execute a Power of Attorney qualifying the attorney named in the given Power of Attorney to execute on behalf of the Company bonds, undertakings and all contracts of surety, and that each or any of them hereby is authorized to attest to the execution of any such Power of Attorney and to attach therein the seal of the Company; and it is

FURTHER RESOLVED, that the signature of such officers and the seal of the Company may be affixed to any such Power of Attorney or to any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures or facsimile seal shall be binding upon the Company when so affixed and in the future with regard to any bond, undertaking or contract of surety to which it is attached.



By Steven P. Anderson, Senior Vice President of Washington International Insurance Company & Senior Vice President of North American Specialty Insurance Company & Senior Vice President of Westport Insurance Corporation

By Mike A. Ito, Senior Vice President of Washington International Insurance Company & Senior Vice President of North American Specialty Insurance Company & Senior Vice President of Westport Insurance Corporation



IN WITNESS WHEREOF, North American Specialty Insurance Company, Washington International Insurance Company and Westport Insurance Corporation have caused their official seals to be hereunto affixed, and these presents to be signed by their authorized officers this 30th day of MAY, 2019.

North American Specialty Insurance Company
Washington International Insurance Company
Westport Insurance Corporation

State of Illinois
County of Cook ss:

On this 30th day of MAY, 2019, before me, a Notary Public personally appeared Steven P. Anderson, Senior Vice President of

Washington International Insurance Company and Senior Vice President of North American Specialty Insurance Company and Senior Vice President of Westport Insurance Corporation and Michael A. Ito Senior Vice President of Washington International Insurance Company and Senior Vice President of North American Specialty Insurance Company and Senior Vice President of Westport Insurance Corporation, personally known to me, who being by me duly sworn, acknowledged that they signed the above Power of Attorney as officers of and acknowledged said instrument to be the voluntary act and deed of their respective companies.



M. Kenny, Notary Public

I, Jeffrey Goldberg, the duly elected Vice President and Assistant Secretary of North American Specialty Insurance Company, Washington International Insurance Company and Westport Insurance Corporation do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney given by said North American Specialty Insurance Company, Washington International Insurance Company and Westport Insurance Corporation which is still in full force and effect.

IN WITNESS WHEREOF, I have set my hand and affixed the seals of the Companies this 7th day of January, 2020.

Jeffrey Goldberg, Vice President & Assistant Secretary of Washington International Insurance Company & North American Specialty Insurance Company & Vice President & Assistant Secretary of Westport Insurance Corporation

UNITED STATES DEPARTMENT OF THE ARMY
HEADQUARTERS, ARMY GENERAL STAFF

MEMORANDUM FOR THE CHIEF OF STAFF
SUBJECT: [Illegible]

1. [Illegible text]

MEMORANDUM FOR THE CHIEF OF STAFF
SUBJECT: [Illegible]

2. [Illegible text]

[Illegible text]

3. [Illegible text]

[Illegible text]

4. [Illegible text]

5. [Illegible text]



[Illegible text]



[Illegible text]

[Illegible text]

[Illegible text]

[Illegible text]

[Illegible text]



[Illegible text]

[Illegible text]

[Illegible text]

MEMORANDUM

DATE: January 13, 2020
TO: James Kelly, Sr. Claims Adjuster
FROM: Penelope Burger, Procurement Division
SUBJECT: ITB #12242-492 RIVEROAKS PRESERVE - P11419

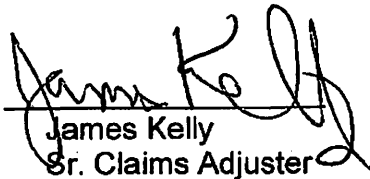
Please review the attachments listed below in connection with the referenced contract:

- Insurance certificate
- Surety Bond

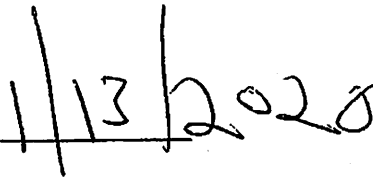
SURETY BOND REQUIREMENT \$1,523,086.00

If the City's requirements are met, please sign below and return. Thank you.

By:


James Kelly
Sr. Claims Adjuster

Date:



c: Contract



COMMISSION AGENDA ITEM
DOCUMENT ROUTING FORM

1 (C) (G)
2/10/2020

Today's Date: 2/4/20

DOCUMENT TITLE: Construction Agreement between City and Continental Construction USA, LLC

COMM. MTG. DATE: 1/9/20 CAM #: 19-1115 ITEM #: CP-1 CAM attached: YES NO

Routing Origin: _____ Router Name/Ext: Glynn Action Summary attached: YES NO

CIP FUNDED: YES NO
Capital Investment / Community Improvement Projects defined as having a life of at least 10 years and a cost of at least \$50,000 and shall mean improvements to real property (land, buildings, or fixtures) that add value and/or extend useful life, including major repairs such as roof replacement, etc. Term "Real Property" include: land, real estate, realty, or real.

1) City Attorney's Office: Documents to be signed/routed? YES NO # of originals attached: 1

Is attached Granicus document Final? YES NO Approved as to Form: YES NO

Date to CCO: _____
Attorney's Name: RMH Initials: [Signature]

2) City Clerk's Office: # of originals: 1 Routed to: MJ Matthews Date: 2/6/2020

3) City Manager's Office: CMO LOG #: Feb. 18 Document received from: CCO

Assigned to: CHRIS LAGERBLOOM ROBERT HERNANDEZ ASHLEY BOXER TARLESHA SMITH
CHRIS LAGERBLOOM as CRA Executive Director

APPROVED FOR C. LAGERBLOOM'S SIGNATURE N/A FOR C. LAGERBLOOM TO SIGN

PER ACM: R. HERNANDEZ _____ (Initial/Date) PER ACM: A. Boxer _____ (Initial/Date)
PER ACM: T. Smith _____ (Initial/Date)

PENDING APPROVAL (See comments below)
Comments/Questions: _____

Forward 1 originals to Mayor CCO Date: 2/7/2020

4) Mayor/CRA Chairman: Please sign as indicated. Forward _____ originals to CCO for attestation/City seal (as applicable) Date: _____

5) City Clerk: Forward _____ originals to CAO for FINAL APPROVAL Date: 2/10/20

6) CAO forwards _____ originals to CCO Date: _____

7) City Clerk: Scan original and forwards _____ originals to: Maureen Lewis

Attach _____ certified Reso # _____ YES NO Original Route form to CAO

ROUTING	COMPLETED
Shannon/Kym H	<i>[Signature]</i> 1/14/20
Paul B. ANEISHA DANIEL	<i>[Signature]</i> 01/17/20
Jodi	<i>[Signature]</i> 1/21/20
Peter Jarman (FIN)	<i>[Signature]</i> 1/22/20
Linda LS Susan Grant	<i>[Signature]</i> 1/22/20
City Attorney	
City Clerk	
Penelope Burger	