



DOCUMENT ROUTING FORM

Rev: 6 | Revision Date: 10/01/2024

CITY MANAGER AND MAYOR'S REVIEW AND/OR SIGNATURE COVERSHEET

1) ORIGINATING OFFICE:

Routing Start Date: 01/03/2025

☒ Agenda Item ☐ Non-Agenda ItemDocument Title: AGREEMENT - Purchase of Annual Stormwater Infrastructure Cleaning, Inspections, and Surveying Continuing Services –
Flotech Environmental, LLC – \$15,935,000 (5-year Initial Term Aggregate Contract Amount) – (Commission Districts 1, 2, 3 and 4)

Commission Mtg. Date: 12/17/2024 CAM #: 24-1127 Item #: M-1

Routing Origin: Finance Department - Procurement Division CAM attached: ☒ Yes ☐ NoRouter Name: Shamori Aldridge Ext: 6238 Action Summary attached: ☒ Yes ☐ NoCIP 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.

2) CITY ATTORNEY'S OFFICE (CAO):

Documents to be signed/routed? ☒ Yes ☐ No Is the attached Granicus document Final? ☐ Yes ☐ NoNumber of originals attached: 1 Approved as to Form: ☒ Yes ☐ No

Attorney's Name: Rhonda Montoya Hasan Initials: RMA

Continue Routing To: FIN (if applicable) Date: and then to CCO Date: 1/9/25

3) CITY CLERK'S OFFICE (CCO):

of originals: 1 Routed to: WAG Date: 01/09/25

4) CITY MANAGER'S OFFICE: CMO LOG #: Jan 19 Document received from:

ASSIGNED TO: ☐ SUSAN GRANT, ACTING CITY MGR. ☐ ANTHONY FAJARD, ASST. CITY MGR.ACTING ASST. CITY MANAGERS.: ☐ BEN ROGERS, ☐ CHRIS COOPER ☐ LAURA REECEACTING CRA EXECUTIVE DIRECTOR ☐ APPROVED FOR CITY MANAGER'S SIGNATURE ☐

CITY MANAGER TO SIGN PER ACM OR AcACM (Initial):

☐ A. FAJARDO ☐ B. ROGERS ☐ C. COOPER ☐ L. REECE ☐ PENDING APPROVAL (See comments)

Comments/Questions:

Forward originals to CCO for continuous routing to Mayor Date to CCO:

5) MAYOR/CRA CHAIRMAN: Please sign as indicated and forward the originals to the City Clerk's Office for a final processing and review of attestation and/or seal, if applicable. Date to CCO: 1/13/25

6) INSTRUCTIONS TO CITY CLERK'S OFFICE: Please retain a scan record copy and forward originals to:

Dept.: Fin-Procurement *Name: Shamori Aldridge Ext 6238

*Please scan the record copy to the City Clerk once review and sign at the last level of government (Federal, State, County) is complete.

Scan Date: Attach certified Resolution # ☐ Yes ☐ No Original form route to CAO

details

File #: [241127](#) Version: 1

Type: MOTION

Title: Motion Approving Agreements for the Purchase of Annual Stormwater Infrastructure Cleaning, Inspections, and Surveying Continuing Services - Flotech Environmental, LLC and National Water Main Cleaning Company - \$15,935,000 (5-year Initial Term Aggregate Contract Amount) - (Commission Districts 1, 2, 3 and 4)

Mover: [Ben Sorensen](#)Seconded: [Steven Glassman](#)

Result: Pass

Agenda note:

Minutes note: Commissioner Sorensen made a motion to approve this Agenda item and was seconded by Vice Mayor Glassman.

Action: APPROVED

Action text: APPROVED

votes (5:0)

[5 records](#) [Group](#) [Export](#)

Person Name	Vote
Steven Glassman	Yea
Pam Beasley-Pittman	Yea
John C. Herbst	Yea
Dean J. Trantalis	Yea
Ben Sorensen	Yea



**CITY OF FORT LAUDERDALE
City Commission Agenda Memo
REGULAR MEETING**

#24-1127

TO: Honorable Mayor & Members of the
Fort Lauderdale City Commission

FROM: Susan Grant, Acting City Manager

DATE: December 17, 2024

TITLE: Motion Approving Agreements for the Purchase of Annual Stormwater Infrastructure Cleaning, Inspections, and Surveying Continuing Services – Flotech Environmental, LLC and National Water Main Cleaning Company – \$15,935,000 (5-year Initial Term Aggregate Contract Amount) – (Commission Districts 1, 2, 3 and 4)

Recommendation

Staff recommends the City Commission approve the agreements, in substantially the forms attached, for the purchase of Annual Stormwater Cleaning, Inspection, and Surveying Continuing Services, with Flotech Environmental, LLC and National Water Main Cleaning Company in the initial five (5) year term estimated aggregate amount of \$15,935,000 (\$3,187,000 per year); and authorize the City Manager to approve two (2) additional two-year renewal options for an estimated aggregate annual renewal amount of \$3,187,000, for a potential total contract amount of \$28,683,000, which includes allowances of \$200,000 for additional labor, contingent upon appropriation of funds.

Background

The City published its Watershed Asset Management Plan (WAMP) in December 2019. The initial plan development and implementation efforts were funded for five (5) years. In that time, the City made great strides in developing an improved asset registry, identifying critical assets, and developing a Condition Assessment Plan. In the next five (5) years, while continuing to refine the asset registry, the WAMP program will transition to the next phase to perform a condition assessment on existing stormwater assets, beginning with the most critical (ratings 3-5). Staff estimates that this effort will cost \$18.75 million over the next five years (i.e. \$3,187,000/fiscal year for contractor(s) and \$563,000/fiscal year for the consultant).

The condition assessment will include cleaning, video inspections, and prioritization of repair work for approximately 190 miles of underground stormwater pipes and 14,500 discrete assets such as catch basins and pump stations located in neighborhoods not addressed by the City's stormwater master plan. As a strategic planning initiative, continuing to support the development of the stormwater WAMP is a part of the City's long-term vision plan.

The scope of services includes, but is not limited to, conducting stormwater cleaning, maintenance, dewatering, inspection, underground pipe surveying services, and stormwater by-pass operations in City rights-of-way. Other services include managing construction schedules, maintenance of traffic plans, dewatering plans, video and sonar pipe inspections, and condition assessments of the City's existing stormwater infrastructure. It is the intent of the City to use the selected contractors on an as-needed basis utilizing task orders. The specific scope of each task order and fee schedule will be agreed upon by the City, the contractors, and the City's construction engineering management consultant, Keith and Associates, Inc.

On January 25, 2024, the Procurement Division advertised Invitation to Bid (ITB) Event No. 229 for the Annual Stormwater Infrastructure Cleaning, Condition Inspections, and Surveying. On June 4, 2024, the City Commission approved the rejection of all bids for ITB Event No. 229 (CAM #24-0473) to allow staff to revise the licensing and minimum qualification requirements of the solicitation to allow for maximum competition to ensure the resultant contract is in the best interest of the City.

On August 13, 2024, the Procurement Services Division issued ITB Event No. 354 - Stormwater Cleaning, Inspection, and Surveying Services. The City received the following three (3) bid responses to the solicitation, which opened on September 16, 2024:

1. Flotech Environmental, LLC (Flotech)
2. National Water Main Cleaning Company (National)
3. Shenandoah General Construction, LLC

Shenandoah General Construction, LLC submitted a no-bid. Both Flotech and National met the solicitation requirements of the ITB and were deemed responsive and responsible bidders. Disadvantaged Business Enterprise was not a requirement for this solicitation.

On October 30, 2024, at the request of the Public Works Department, the Procurement Services Division requested pricing from each responsive and responsible bidder for additional items or services of a similar nature, but not specifically listed in the solicitation. The ITB allows for additional items or services at a later point in time. Three (3) items (line items 29 – 31: Sonar/Laser Inspection and Pipe Assessment) were added and included in the bid tabulation (Exhibit 3). These additional items do not adversely impact the bid award.

Staff recommends award to Flotech and National with the annual amounts of \$1,593,500 each for a total combined annual aggregate amount of \$3,187,000.

Resource Impact

There will be a fiscal impact to the City in the amount of \$3,187,000. Funds for these agreements are available in the FY 2025 Community Investment Plan in the account listed below. Future years' expenditures are contingent upon approval and appropriation of the annual budgets.

<i>Funds available as of November 21, 2024</i>					
ACCOUNT NUMBER	COST CENTER NAME (Program)	CHARACTER/ ACCOUNT NAME	AMENDED BUDGET (Character)	AVAILABLE BALANCE (Character)*	AMOUNT
10-471-7999-538-60-6534-P12888	Watershed Asset Management Plan (WAMP) – Condition Assessment	Capital Outlay/ Construction	\$4,751,607	\$4,751,607	\$3,187,000
TOTAL AMOUNT ►					\$3,187,000

Strategic Connections

This item is a 2024 *Commission Priority*, advancing the Infrastructure and Resilience Initiative.

This item supports the *Press Play Fort Lauderdale 2029* Strategic Plan, specifically advancing:

- The Infrastructure and Resilience Focus Area, Goal 3: Be a sustainable and resilient community.

This item advances the *Fast Forward Fort Lauderdale 2035* Vision Plan: We are Ready.

This item supports the *Advance Fort Lauderdale 2040* Comprehensive Plan specifically advancing:

- The Infrastructure Focus Area
- The Sanitary Sewer, Water, & Stormwater Element
- Goal 6: Ensure that all areas of the City are reasonably protected from flooding giving due consideration to the City's natural and built environment.

Attachments

Exhibit 1 – CAM #24-0473

Exhibit 2 – Solicitation

Exhibit 3 – Bid Tabulation

Exhibit 4 – Flotech Agreement

Exhibit 5 – National Agreement

Prepared by: Glenn Marcos, Chief Procurement Officer, Finance
Elkin Diaz, Senior Project Manager, Public Works
Michelle Lemire, Procurement Administrator, Finance
Shamori Aldridge, Senior Administrative Assistant, Finance

Department Directors: Alan Dodd, P.E., Public Works
Linda Short, Finance

CITY OF FORT LAUDERDALE
CONSTRUCTION AGREEMENT

THIS CONSTRUCTION AGREEMENT ("Agreement") made and entered into this 13th day of January, 2024, by and between the City of Fort Lauderdale, a Florida municipal corporation ("City") and Flotech Environmental, LLC, a Florida limited liability company ("Contractor"), ("Party" or collectively "Parties");

WHEREAS, the City desires to retain a contractor for the Project as expressed in its Invitation to Bid Event No. 354, Project Number P12888, which was opened on September 16, 2024; 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 – Advertisement for Invitation to Bids, the Instructions to Bidders, the Bid Form (with supplemental affidavits and sample 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 written document executed by both Parties ordering a change in the Contract Price or Contract Time or a material change in the Work.
- 1.8 City – The City of Fort Lauderdale, Florida, including but not limited to its employees, agents, officials, representatives, contractors, subcontractors, and volunteers 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, 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, 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 amount established in the bid submittal and award by the City's City Commission, as may be amended by an approved and fully executed Change Order.
- 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 firm, company, or corporation with whom the City has entered into the Agreement, including but not limited to its employees, agents, representatives, contractors, subcontractors, and their subcontractors.
- 1.13 Day – A calendar day of twenty-four (24) hours ending at midnight.
- 1.14 Defective – 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 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-workdays 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 condition’s precedent enumerated therein, within the time specified that the City will sign and deliver this Agreement.
- 1.23 Notice to Proceed – A written notice to Contractor authorizing the commencement of the activities identified in the notice or as described in the Contract Documents.
- 1.24 Plans – The official graphic representations of this Project that are a part of 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 construction project described in the Contract Documents, including the

Work described therein.

- 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 a Professional Engineer, or a Professional Land Surveyor licensed in the State of Florida and employed by the Contractor at no cost to the City.
- 1.31 Substantially Completion – That date, as certified in writing by the Contractor and as finally determined by the City in its sole discretion, on which the Work, or a portion thereof, is at a level of completion in substantial compliance with the Contract Documents such that all conditions of completion in substantial compliance with the Contract Documents such that all conditions of permits and regulatory agencies have been satisfied and the City can enjoy use or occupancy and can use or operate it in all respects for its intended purpose.
- 1.32 Task Order – A written agreement between the City and Contractor defining the particular scope of work to be performed under this Contract. When necessary, plans, permits and specifications may be provided by the City to clarify the requirements of the Task Order work. Each Task Order will contain a timeframe in which the work shall be completed in order for the Contractor to avoid being subjected to liquidated damages.
- 1.33 Work – The construction and services required by the Contract Documents, whether completed or partially completed, and includes all labor, materials, equipment, and services provided or to be provided by Contractor to fulfill Contractor's obligations. The Work may constitute the whole or a part of the Project.

ARTICLE 2 – SCOPE OF WORK

- 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:

ANNUAL STORMWATER INFRASTRUCTURE CLEANING, INSPECTIONS, AND SURVEYING

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

This Project is City-wide in the City of Fort Lauderdale. The Work to be accomplished under this Agreement includes, but is not limited to, cleaning, conducting video inspections, and condition assessments of critical stormwater infrastructure located throughout 10 watersheds in the City following the National Association of Sewer Service Companies (NASSCO) standards and guidelines.

- 2.3 Within ten (10) days of the execution of each Task Order, the Contractor shall submit a Construction Schedule, Schedule of Values and a listing of all personnel employed. 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 **Elkin Diaz, P.E.**, whose address is **101 NE 3rd Avenue, Suite 1410, Fort Lauderdale, Florida 33301**, telephone number: **(954) 828-6539**, and email address is **ediaz@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 incorporated herein and attached to this Agreement, and consist of the following:

- 4.1 This Agreement.
- 4.2 Exhibits to this Agreement.
- 4.3 Public Construction Bond, Performance Bond, Payment Bond and Certificates of Insurance.
- 4.4 Notice of Award and Notice to Proceed.
- 4.5 General Conditions and Special Conditions.
- 4.6 Technical Specifications.
- 4.7 Plans/Drawings.
- 4.8 Any Addenda.
- 4.9 Bid Form and supplement Affidavits and Agreements.

- 4.10 All applicable provisions of State and Federal Law.
- 4.11 Invitation to Bid Event No. 354, Instructions to Bidders, and Bid Bond.
- 4.12 Contractor's response to the City's Invitation to Bid Event No. 354, dated September 16, 2024.
- 4.13 Schedule of Completion.
- 4.14 All amendments, modifications and supplements, change orders and work directive changes, issued on or after the Effective Date of the Agreement.
- 4.15 Any additional documents that are required to be submitted under the Agreement.
- 4.16 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.

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

- a. Approved change orders, addenda or amendments.
- b. Specifications and Drawings.
- c. Special Conditions.
- d. General Conditions.
- e. This Agreement dated January 13, 2025 and any attachments.
- f. Invitation to Bid Event No. 354, and the specifications prepared by the City.
- g. Contractor's response to the City's Invitation to Bid Event No. 354, dated September 16, 2024.
- h. Schedule of Values.
- i. 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, within five (5) calendar days, and before proceeding with the Work affected shall obtain a written interpretation or clarification from the City.

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 initial term of the Agreement shall commence upon the date of award by the City and shall expire five (5) years from that date. The City reserves the right to extend the Agreement for two (2) additional two (2) year terms, providing all terms, conditions and specifications remain the same, both Parties agree to the extension, and such extension is approved by the City.
- 5.2 The Contractor recognizes that **TIME IS OF THE ESSENCE**. The Work on each Task Order shall commence immediately upon the Contractor's receipt of an executed Task Order.
- 5.4 The Work on each Task Order shall be substantially completed within the timeframe agreed upon and noted in each executed Task Order.
- 5.5 The Work on each Task Order shall be finally completed on or before the Final Completion Date and ready for final payment in accordance with the Final Completion Date agreed upon and noted in each executed Task Order.
- 5.6 In the event services are scheduled to end because of the expiration of this Agreement, the Contractor shall continue the service upon the request of the City as authorized by the awarding authority. The extension period shall not extend for more than **two hundred and seventy (270) days** beyond the expiration date of the existing Agreement. The Contractor shall be compensated for the service at the rate in effect when this extension clause is invoked by the City. No new Task Orders will be assigned after the Agreement's expiration nor will any new work be performed after that date.

ARTICLE 6 – CONTRACT PRICE

- 6.1 City shall pay Contractor for performance of the Work in accordance with Article 7 based on the value of the executed Task Orders issued for this Agreement.
- 6.2 The Parties expressly agree that the Contract Price is a unit price contract in accordance with the line items unit prices listed in the Contractor's ITB response and incorporated by reference herein. The quantities of work in the response are a rough approximation only. The total quantities of work to be included in this Agreement and actually performed may vary widely depending upon the work that will be authorized by the City through Task Orders during the period of this Agreement.
- 6.3 The Contract Price constitutes the compensation payable to Contractor for performing the Work for the cumulative value of each executed Task 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 each executed Task Order, in accordance with the Contract Documents. Applications for Payment will be processed by City as provided for 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 executed Task Order and corresponding Application 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 on the executed Task Order.
- 7.3 Prior to Final Completion of each Task Order, progress payments will be made in an amount equal to ninety-five percent (95%) 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 under each Task Order, 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 five percent (5%) 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 Contractor 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 (2024), as may be amended or revised, provided, however, a complete and error free pay application is submitted.
- 7.7 The City shall make payment to the Contractor by check.

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.
- 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 each Task Order and associated Contract Documents, the Work, locality, soil conditions, water table condition, moisture conditions and all year-round local weather and climate conditions (past and present), and 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 each Task Order.

Furthermore, Contractor warrants and confirms that it 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 each Task Order, 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 Task Order and all other matters which can in any way affect the Work, schedule, or the cost thereof under the Task Order and associated Contract Documents.
- 8.4 The Contractor has also studied on its own, 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 Task Order Work can be completed for the Proposed Price submitted and within the timeframe agreed upon within each Task Order.
- 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 it deems necessary for the performance of the Work under each Task Order at the Contract Prices, within the Contract Time of the specified Task Order 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 related to each Task Order with the terms and conditions of the Contract Documents.

8.7 Contractor has given City written notice of all conflicts, errors or discrepancies that it has discovered in the Contract Documents related to each Task Order 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 for each Task Order. 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 under each Task Order.

8.8.3 The Contractor shall designate the superintendent on the job to the City, in writing, immediately after receipt of each Task Order. 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 Agreement in accordance with Article 17.

8.8.4 Where required and necessary, the Contractor shall, at all times, have a certified "competent person" assigned to the job site for each Task Order. The Contractor shall assign personnel to the job site that have successfully completed training programs related to trench safety, confined space work, and maintenance of traffic (MOT). Personnel certified by the International Municipal Signal Associations with Florida Department of Transportation qualifications are required relative to MOT. Any other certifications that may be required by applicable permitting agencies for the Work assigned under each Task Order shall also be complied with by the Contractor. Failure to pursue the Work with the properly certified supervisory staff may result in notice to stop work on a Task Order or terminate the Agreement 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 under each Task Order.

8.9.2 All materials 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 8 a.m. and 5:00 p.m., Monday through Friday.

Unless approved by the City in advance, the Contractor will not perform 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. For any overtime inspection required by City personnel, 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 \$170.00 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 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 bids. 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 in conflict, the Contractor shall give the Project Manager prompt written notice thereof within five (5) calendar days, 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, standards, specifications and regulations, and without such notice to the Project Manager, the Contractor shall bear all costs arising therefrom.

- 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, and the 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 its 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 properties and areas 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 accumulation 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.

- 8.16.3 The interrelated work with the City where tie-ins to existing facilities are required.
- 8.16.4 The effort of independent testing agencies.
- 8.16.5 Notice to affected property owners as may be directed by the Project Manager.
- 8.16.6 Coordination with and scheduling of all required inspections from all permitting agencies.

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 electronic drawings files created in the most recent AutoCAD. 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 (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. Section 9607, as amended or revised, 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 it 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 purpose, such acts or circumstances shall include, but not be limited to weather conditions affecting performance, floods, epidemics, pandemics, war, act of Governmental Authority, state of emergency, 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 ninety-six (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 it, the sub-recipient or its subcontractors shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. 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 Agreement, which may result in the termination of this Agreement 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 shall provide public rights-of-way and easement, where available, for the installation of conduits, transformers pads and related appurtenances only.
- 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 data 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.

9.5 Cancellation for Unappropriated Funds: The obligation of the City for payment to a Contractor is limited to the availability of funds appropriated in a current fiscal period, and continuation of the Agreement into a subsequent fiscal period is subject to appropriation of funds, unless otherwise authorized by law.

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 (2024), 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:

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, Contractor shall cause the OB Contractor, at its sole expense, to 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 Contractor. Contractor shall provide the City a certificate of insurance evidencing such coverage. Contractor's insurance coverage shall be primary insurance for all applicable policies, in respect to the City's interests. The limits of coverage under each policy maintained by Contractor shall not be interpreted as limiting Contractor's liability and obligations under this Agreement. All insurance policies shall be through insurers authorized or eligible to write policies in the State of Florida and possess an A.M. Best rating of A-, VII or better, subject to approval by the City's Risk Manager.

The coverages, limits, and/or endorsements required herein protect the interests of the City, and these coverages, limits, and/or endorsements shall in no way be relied upon by Contractor for assessing the extent or determining appropriate types and limits of coverage to protect Contractor against any loss exposures, 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 Contractor under this Agreement.

The following insurance policies and coverages are required:

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, a Florida municipality, its officials, employees, and volunteers are to be included as an additional insured 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 Contractor. The coverage shall contain no special limitation on the scope of protection afforded to the City, its officials, employees, and volunteers.

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 Contractor does not own vehicles, 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.

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 Statutes.

Contractor waives, and Contractor shall ensure that Contractor's insurance carrier waives, all subrogation rights against the City, its officials, 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.

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

Insurance Certificate Requirements

- a. Contractor shall provide the City with valid Certificates of Insurance (binders are unacceptable) no later than ten (10) days prior to the start of work contemplated in this Agreement.
- b. 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 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 or any surviving obligation of Contractor following expiration or early termination of the Agreement goes beyond the expiration date of the insurance policy, 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 included as an Additional Insured on all liability policies, with the exception of Workers' Compensation.
- g. The City shall be granted a Waiver of Subrogation on 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
401 SE 21st Street
Fort Lauderdale, FL 33316

Contractor has the sole responsibility for 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 application 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 Contractor's expense.

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

Contractor's insurance coverage shall be primary insurance in respect to the City's interests, a Florida municipality, its officials, employees, and volunteers. Any insurance or self-insurance maintained by the City shall be non-contributory.

Any exclusion or provision in any insurance policy maintained by Contractor that excludes coverage required in this Agreement shall be deemed unacceptable and shall be considered breach of contract.

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

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

It is Contractor's responsibility to ensure that any and all of 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 Contractor. The City reserves the right to adjust insurance limits from time to time at its discretion with notice to Contractor.

NOTE: CITY PROJECT NUMBER, PROJECT NAME AND BID NUMBER MUST APPEAR ON EACH CERTIFICATE, AND THE CITY OF FORT LAUDERDALE MUST BE NAMED ON THE CERTIFICATE AS AN "ADDITIONAL INSURED" ON REQUIRED 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 Project Manager 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 Paragraphs 11.2.1 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 it 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, suppliers, employees or laborers; (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, 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 representatives, agents, employees, and appointed and elected officials, 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 representatives, agents, employees, and appointed and elected officials 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 (2024), as may be amended or revised, 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 Task Order Amendments. Upon receipt of an approved and fully executed Task Order Amendment, the Contractor shall proceed with the Work involved. City reserves the right to add, delete or modify any or all pay items and/or quantities. All adjustments shall be made on the per unit price basis where unit prices are quoted. Other adjustments, if any, shall be based on a fair and equitable manner per the Contract Documents or mutually negotiated price between the Contractor and City. In the event the Contractor and City cannot come to an agreement on a price or price adjustment, the City shall have the right to complete that item or work by other means without invalidating the Contract. No claim of loss of profit shall be made against the City.
- 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

Contract Price shall not exceed that which is agreed to in this Agreement. Any increase to the Contract Price shall be executed through an Amendment to this Agreement and approved by the City Commission.

- 14.1 Time for the City to Approve Contract Amendment: Should the cumulative amount of the executed Task Orders exceed the Contract Price, a Contract Amendment must be approved by the City Commission authorizing additional funding for this Agreement if it exceeds the threshold established in the City Code.

ARTICLE 15 – CHANGE OF THE CONTRACT TIME

- 15.1 All time limits stated in the Contract Documents and within each executed Task Order are of the essence. The provisions of this Article 15 shall not exclude recovery for damages for delay by the Contractor.
- 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 therefore 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, pandemics, act of Governmental Authority, state of emergency, or acts of God.
- 15.3 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 Agreement, 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 **Five Hundred Dollars (\$500.00)** 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 makes a general assignment for the benefit of creditors.
 - 17.2.2 If a trustee, receiver, custodian or agent of the Contractor is appointed under applicable law or under Agreement, 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.
 - 17.2.3 If Contractor fails to begin the Work within fifteen (15) calendar days after the date set forth in the Notice to Proceed, 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.

17.2.4 If the Contractor repeatedly fails to make prompt payments to subcontractors or for labor, material or equipment.

17.2.5 If the Contractor repeatedly disregards proper safety procedures.

17.2.6 If the Contractor disregards any local, state or federal laws or regulations.

17.2.7 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 notice 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 below in Section 17.5.

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 Contactor 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 Agreement 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 accepted by the City and costs reasonably incurred by Contractor relating to commitments which had become firm prior to the termination. No payment shall be made for profit for work/services which have not been performed or accepted.

- 17.6 Where the Contractor's service has 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 City Project Manager and Contractor shall be submitted to the City Manager or his designee and Contractor's representative for resolution. Prior to any litigation being commenced, for any disputes which remain unresolved, within sixty (60) days after final completion of the Work, the Parties shall participate in mediation to address all unresolved disputes to a mediator agreed upon by the Parties. Should any objection not be resolved in mediation, the Parties retain all their legal rights and remedies provided under the laws of Florida. Failure by a Party to comply in strict accordance with the requirements of this Article, then said Party specifically waives all of its rights provided hereunder, including its rights and remedies under the laws of Florida.
- 18.1.1 All non-technical administrative disputes (such as billing and payment) shall be determined by Contract Administrator.
- 18.1.2 During the pendency of any dispute and after a determination thereof, Contractor 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.
- 18.1.3 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 or by a recognized overnight or express delivery service to the following:

To the City:

Elkin Diaz, P.E.
Senior Project Manager
Public Works Department
City of Fort Lauderdale
101 NE 3rd Avenue, Suite 1410
Fort Lauderdale, Florida 33301
Telephone: (954) 828-6539
E-mail: ediaz@fortlauderdale.gov

with copies to:

City Manager
City of Fort Lauderdale
101 NE 3rd Avenue, Suite 2100
Fort Lauderdale, Florida 33301

City Attorney
City of Fort Lauderdale
1 East Broward Boulevard, Suite 1320
Fort Lauderdale, Florida 33301

To the Contractor:

Roberto Luna
Project Manager
Flotech Environmental, LLC
657 South Drive, Suite 401
Miami, Florida 33166
Telephone: (866) 299-3323
E-mail: estimating@flotechllc.com

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 (2024), as may be amended or revised, or to extend the City's liability beyond the limits established in said Section 768.28, Florida Statutes (2024), as may be amended or revised; 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; WAIVER OF JURY TRIAL

- 21.1 The Agreement shall be interpreted and construed in accordance with, and governed by, the laws of the state of Florida. The Parties agree that the exclusive venue for any lawsuit arising from, related to, or in connection with this Agreement shall be in the state courts of the Seventeenth Judicial Circuit in and for Broward County, Florida. If any claims arising from, related to, or in connection with this Agreement must be litigated in federal court, the Parties agree that the exclusive venue for any such lawsuit shall be in the United States District Court or United States Bankruptcy Court for the Southern District of Florida. **BY ENTERING INTO THIS AGREEMENT, THE PARTIES HEREBY EXPRESSLY WAIVE ANY AND ALL RIGHTS EITHER PARTY MIGHT HAVE TO A TRIAL BY JURY OF ANY ISSUES RELATED TO THIS AGREEMENT. IF A PARTY FAILS TO WITHDRAW A REQUEST FOR A JURY TRIAL IN A LAWSUIT ARISING OUT OF THIS AGREEMENT AFTER WRITTEN NOTICE BY THE OTHER PARTY OF VIOLATION OF THIS SECTION, THE PARTY MAKING THE REQUEST FOR JURY TRIAL SHALL BE LIABLE FOR THE REASONABLE ATTORNEYS' FEES AND COSTS OF THE OTHER PARTY IN CONTESTING THE REQUEST FOR JURY TRIAL, AND SUCH AMOUNTS SHALL BE AWARDED BY THE COURT IN ADJUDICATING THE MOTION.**

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 as independent contractor 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 Iran Terrorism Sectors List, created pursuant to Section 215.473, Florida Statutes (2024), as may be amended or revised, and that it does not have business operations in Cuba or Syria, as provided in Section 287.135, Florida Statutes (2024), as may be amended or revised. The Contractor certifies that it is not on the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes (2024), as may be amended or revised, and that it is not engaged in a boycott of Israel. 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 (2024), as may be amended or revised, or been placed on the Scrutinized Companies with Activities in Sudan List, or been placed on a list created pursuant to Section 215.473, Florida Statutes (2024), as

may be amended or revised, relating to scrutinized active business operations in Iran, or been placed on the Scrutinized Companies that Boycott Israel List created pursuant to Section 215.4725, Florida Statutes (2024), as may be amended or revised, 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 (2024), as may be amended or revised.

By submitting a bid or response, the company, principals, or owners certify that it is not listed on the Scrutinized Companies with Activities in Sudan List or listed on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or is engaged in business operations in Cuba or Syria.

- 22.8 Public Entity Crimes: In accordance with the Public Crimes Act, Section 287.133, Florida Statutes (2024), as may be amended or revised, 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 (2024), as may be amended or revised, 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 Contractor 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 (2024), TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT PRRCONTRACT@FORTLAUDERDALE.GOV, 954-828-5002, CITY CLERK'S OFFICE, 1 EAST BROWARD BOULEVARD, SUITE 444 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 (2024), 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 Agreement if the Contractor does not transfer the records to the City.
4. Upon completion of the Agreement, 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 Agreement, 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 Agreement, 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.

22.11 Non-Discrimination:

The Contractor shall not discriminate against its employees based on the employee's race, color, religion, gender, gender identity, gender expression, marital status, sexual orientation, national origin, age, disability, or any other protected classification as defined by applicable law.

1. The Contractor certifies and represents that the Contractor offers the same health benefits to the domestic partners of its employees as are offered its employees' spouses or offers its employees the cash equivalent of such health benefits because it is unable to provide health benefits to its employees' domestic partners, and that the Contractor will comply with Section 2-187, Code of Ordinances of the City of Fort Lauderdale, Florida, as may be amended or revised, ("Section 2-187"), during the entire term of this Agreement.
2. The failure of the Contractor to comply with Section 2-187 shall be deemed to be a material breach of this Agreement, entitling the City to pursue any remedy stated below or any remedy provided under applicable law.
3. The City may terminate this Agreement if the Contractor fails to comply with Section 2-187.
4. The City may retain all monies due or to become due until the Contractor complies with Section 2-187.
5. The Contractor may be subject to debarment or suspension proceedings. Such proceedings will be consistent with the procedures in Section 2-183 of the Code of Ordinances of the City of Fort Lauderdale, Florida.

22.12 E-Verify:

As a condition precedent to the effectiveness of this Agreement, pursuant to Section

448.095, Florida Statutes (2024), as may be amended or revised, the Contractor and its subcontractors shall register with and use the E-Verify system to electronically verify the employment eligibility of newly hired employees.

1. The Contractor shall require each of its subcontractors, if any, to provide the Contractor with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. The Contractor shall maintain a copy of the subcontractor's affidavit for the duration of this Agreement and in accordance with the public records requirements of this Agreement.

2. The City, the Contractor, or any subcontractor who has a good faith belief that a person or entity with which it is contracting has knowingly violated Subsection 448.09(1), Florida Statutes (2024), as may be amended or revised, shall terminate the contract with the person or entity.

3. The City, upon good faith belief that a subcontractor knowingly violated the provisions of Subsection 448.095(5), Florida Statutes (2024), as may be amended or revised, but that the Contractor otherwise complied with Subsection 448.095(5), Florida Statutes (2024), as may be amended or revised, shall promptly notify Contractor and order the Contractor to immediately terminate the contract with the subcontractor, and the Contractor shall comply with such order.

4. A contract terminated under Subparagraph 448.095(5)(c)1. or 2., Florida Statutes (2024), as may be amended or revised, is not a breach of contract and may not be considered as such. If the City terminates this contract under Paragraph 448.095(5)(c), Florida Statutes (2024), as may be amended or revised, the Contractor may not be awarded a public contract for at least one year after the date on which the contract was terminated. The Contractor is liable for any additional costs incurred by the City as a result of termination of this Agreement.

5. Contractor shall include in each of its subcontracts, if any, the requirements set forth in this Section, including this subparagraph, requiring any and all subcontractors, as defined in Subsection 448.095(1)(e), Florida Statutes (2024), as may be amended or revised, to include all of the requirements of this Section in their subcontracts. Contractor shall be responsible for compliance by any and all subcontractors, as defined in Subsection 448.095(1)(e), Florida Statutes (2024), as may be amended or revised, with the requirements of Section 448.095, Florida Statutes (2024), as may be amended or revised.

22.13 Anti-Human Trafficking:

As a condition precedent to the effectiveness of this Agreement, the Contractor shall provide the City with an affidavit signed by an officer or a representative of the Contractor under penalty of perjury attesting that the CONSULTANT does not use coercion for labor or services as defined in Section 787.06, Florida Statutes (2024), as may be amended or revised.

Annual Stormwater Infrastructure Cleaning, Inspections, and Surveying
FloTech Environmental, LLC
ITB Event No. 354 Project No. P12888

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 Florida municipal corporation

By: 
SUSAN GRANT
Acting City Manager


Date: January 13, 2025

ATTEST:

By: 
DAVID R. SOLOMAN
City Clerk




Approved as to Legal Form and Correctness:
D'Wayne M. Spence, Interim City Attorney

By: 
RHONDA MONTOYA HASAN
Senior Assistant City Attorney

CONTRACTOR

WITNESSES:



Karlos Ramos

Print Name



Tania Del Amo Amador

Print Name

FLOTECH ENVIRONMENTAL, LLC, a Florida
limited liability company

By: 

JOSE FERRE

Managing Member

ATTEST:

By: 

Secretary

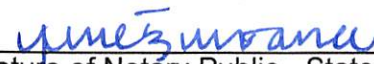
(CORPORATE SEAL)

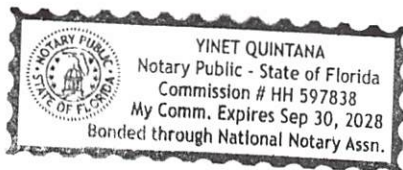
Flotech Environmental, LLC
657 South Drive, Suite 401
Miami, FL 33166

STATE OF Florida :

COUNTY OF Miami-Dade

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 16 day of December, 2024, by **Jose Ferre**, as **Managing Member**, for **Flotech Environmental, LLC**, a Florida limited liability company.


(Signature of Notary Public - State of Florida)



Yineta Quintana

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

Personally Known ☒ OR Produced Identification ☐
Type of Identification Produced: _____

AFFIDAVIT OF COMPLIANCE WITH FOREIGN ENTITY LAWS
(Florida Statute- §287.138, 692.201, 692.202, 692.203, and 692.204)

The undersigned, on behalf of the entity listed below ("Entity"), hereby attests under penalty of perjury as follows:

1. Entity is not owned by the government of a foreign country of concern as defined in Section 287.138, Florida Statutes. (Source: § 287.138(2)(a), Florida Statutes)
2. The government of a foreign country of concern does not have a controlling interest in Entity. (Source: § 287.138(2)(b), Florida Statutes)
3. Entity is not organized under the laws of, and does not have a principal place of business in, a foreign country of concern. (Source: § 287.138(2)(c), Florida Statutes)
4. Entity is not owned or controlled by the government of a foreign country of concern, as defined in Section 692.201, Florida Statutes. (Source: § 288.007(2), Florida Statutes)
5. Entity is not a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country of concern, as defined in Section 692.201, Florida Statutes, or a subsidiary of such entity. (Source: § 288.007(2), Florida Statutes)
6. Entity is not a foreign principal, as defined in Section 692.201, Florida Statutes. (Source: § 692.202(5)(a)(I), Florida Statutes)
7. Entity is in compliance with all applicable requirements of Sections 692.202, 692.203, and 692.204, Florida Statutes.
8. **(Only applicable if purchasing real property)** Entity is not a foreign principal prohibited from purchasing the subject real property. Entity is either (a) not a person or entity described in Section 692.204(1)(a), Florida Statutes, or (b) authorized under Section 692.204(2), Florida Statutes, to purchase the subject property. Entity is in compliance with the requirements of Section 692.204, Florida Statutes. (Source: §§ 692.203(6)(a), 692.204(6)(a), Florida Statutes)
9. The undersigned is authorized to execute this affidavit on behalf of Entity.

Name: Jose Ferre Title: Managing Member Entity: Flotech Environmental, LLC

Signature: [Signature] Date: 12-16-2024

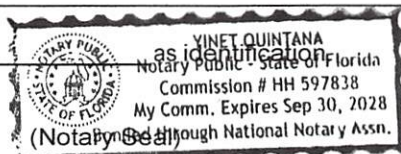
NOTARY PUBLIC ACKNOWLEDGEMENT SECTION

STATE OF Florida
COUNTY OF Miami-Dade

The foregoing instrument was acknowledged before me, by means of ☒ physical presence or ☐ online notarization, this 16 day of December 2024 by Jose Ferre, as Managing Member for Flotech Environmental, LLC, who is personally known to me or who has produced _____

Notary Public Signature: Yinet Quintana

Print Name: Yinet Quintana



My commission expires: 9/30/2028



DEPARTMENT OF FINANCE – PROCUREMENT

ANTI-HUMAN TRAFFICKING AFFIDAVIT

Rev: 1 | Date: 08/06/2024

The undersigned, on behalf of Flotech Environmental, LLC.,
a Florida (State) LLC (Type of Entity), ("Nongovernmental
Entity"), under penalty of perjury, hereby deposes and says:

1. My name is Jose Ferre.
2. I am an ☒ officer or ☐ authorized representative of the Nongovernmental Entity.
3. I attest that the Nongovernmental Entity does not use coercion for labor or services as defined in Section 787.06, Florida Statutes (2024), as may be amended or revised.

Under penalties of perjury, I declare that I have read the foregoing Anti-Human Trafficking Affidavit and that the facts stated in it are true.

Signature of Officer or Representative: [Signature]

Name of Officer or Representative: Jose Ferre Title: Managing Member

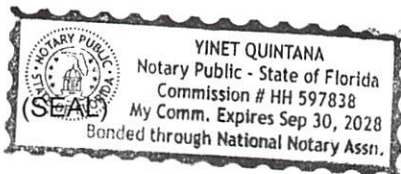
Office Address: 657 South Drive, Suite 401, Miami, FL 33166

Email Address: contractadmin@flotechllc.com

Main Phone Number: (866) 299-3323 FEIN No.: 45-4556187

STATE OF Florida
COUNTY OF Miami-Dade

Sworn to and subscribed before me by means of ☒ physical presence or ☐ online
notarization, this 16 day of December, 2024, by Jose Ferre.



[Signature]
(Signature of Notary Public – State of Florida)

Yinet Quintana
Print, Type or Stamp Commissioned Name of
Notary Public)

Personally Known ☒ OR Produced Identification ☐

Type of Identification Produced _____



December 12, 2024

RE: Flotech Environmental, LLC

To Whom It May Concern,

This is to advise you that our office provides Bid, Performance, and Payment Bonds for Flotech Environmental, LLC. Their Surety is United States Fire Insurance Company which carries an A.M. Best rating of A XV and is listed in the Department of the Treasury's Federal Register.

Based upon normal and standard underwriting criteria at the time of the request, we should be in a position to provide Performance and Payment Bonds in the amount of \$13,000,000.00 for single projects and \$20,000,000.00 total aggregate. We obviously reserve the right to review final contractual documents, bond forms, and obtain satisfactory evidence of funding prior to final commitment to issue bonds.

Flotech Environmental, LLC is an excellent contractor and we hold them in the high regard. We feel extremely confident in our contractor and encourage you to offer them an opportunity to execute any upcoming projects.

This letter is not assumption of liability; nor is it a bid or performance and payment bond. It is issued only as a bonding reference requested by our client.

Please do not hesitate to contact this office if you have any questions.

Sincerely,

A handwritten signature in blue ink, appearing to read "CJN 12/12/24".

Charles J. Nielson
Resident Agent

Client#: 1924855

FLOTEENV

ACORD™

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

12/17/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer any rights to the certificate holder in lieu of such endorsement(s).

PRODUCER USI Insurance Services, LLC/CL 201 Alhambra Circle, Suite 900 Coral Gables, FL 33134-5108 305 669-6000	CONTACT NAME: Laura W. or Yomie G. PHONE (A/C, No, Ext): 305 669-6000 FAX (A/C, No): E-MAIL ADDRESS: yomie.gutierrez@usi.com																					
INSURED Flotech Environmental, LLC 657 South Dr Ste 401 Miami, FL 33166	<table border="1"> <thead> <tr> <th colspan="2">(INSURER(S) AFFORDING COVERAGE)</th> <th>NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A :</td> <td>Ironshore Specialty Insurance Co</td> <td>25445</td> </tr> <tr> <td>INSURER B :</td> <td>Hamilton Insurance</td> <td>17178</td> </tr> <tr> <td>INSURER C :</td> <td>Federal Insurance Company</td> <td>20281</td> </tr> <tr> <td>INSURER D :</td> <td>Travelers Property Cas. Co. of America</td> <td>25674</td> </tr> <tr> <td>INSURER E :</td> <td></td> <td></td> </tr> <tr> <td>INSURER F :</td> <td></td> <td></td> </tr> </tbody> </table>	(INSURER(S) AFFORDING COVERAGE)		NAIC #	INSURER A :	Ironshore Specialty Insurance Co	25445	INSURER B :	Hamilton Insurance	17178	INSURER C :	Federal Insurance Company	20281	INSURER D :	Travelers Property Cas. Co. of America	25674	INSURER E :			INSURER F :		
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INSURER E :																						
INSURER F :																						

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

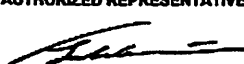
INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> B/PPD Ded: \$25,000 GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:	X X	IEPUW0031131600	09/08/2024	09/08/2025	EACH OCCURRENCE \$2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$500,000 MED EXP (Any one person) \$25,000 PERSONAL & ADV INJURY \$2,000,000 GENERAL AGGREGATE \$4,000,000 PRODUCTS - COMP/OP AGG \$4,000,000 \$
C	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS ONLY	X X	54326340	09/08/2024	09/08/2025	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
B	UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$	X X	ENVXSS463737	09/08/2024	09/08/2025	EACH OCCURRENCE \$4,000,000 AGGREGATE \$4,000,000 \$
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	X 54326341	09/08/2024	09/08/2025	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
A	Pollution Liab	X	IEPUW0031131600	09/08/2024	09/08/2025	\$2,000,000 each Occ
A	Professional Liab		IEPUW0031131600	09/08/2024	09/08/2025	2,000,000 each Incident
D	CE-Inland Marine		QT6607S257039TIL	09/08/2024	09/08/2025	\$250,000 Leased/Rented

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

RE: City of Fort Lauderdale Solicitation 24-1127, Invitation to Bid Event No. 354, Project Number P12888
 The General Liability, Automobile Liability and Excess liability policies include an automatic Additional Insured endorsement that provides Additional Insured status to The City of Fort Lauderdale, a Florida municipality, its officials, employees, and volunteers, only when there is a written contract that requires such status, and only with regard to work performed by or on behalf of the named insured. The Genral (See Attached Descriptions)

CERTIFICATE HOLDER

CANCELLATION

City of Fort Lauderdale 401 SE 21st Street Fort Lauderdale, FL 33316	<p>SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.</p> <p>AUTHORIZED REPRESENTATIVE</p> 
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ACORD 25 (2016/03)

#S47368284/M46121593

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AJRZP

DESCRIPTIONS (Continued from Page 1)

Liability and Automobile Liability policies contains a special endorsement with Primary and Noncontributory wording, when required by written contract. The General Liability, Automobile Liability, Excess Liability and Workers Compensation policies provide a Blanket Waiver of Subrogation when required by written contract, except as prohibited by law. The General Liability, Automobile Liability and Workers Compensation policies include an endorsement providing that 30 day notice of cancellation will be given to the Certificate Holder by the Insurance Carrier.



IRONSHORE SPECIALTY INSURANCE COMPANY

175 Berkeley Street
Boston, MA 02116
Toll Free: (877) IRON411

Endorsement #

Policy Number: IEPW0031131600
Insured Name: Flotech Environmental, LLC

Effective Date of Endorsement: September 08, 2024

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED(S) AMENDMENT

This endorsement modifies insurance provided under the following:

In consideration of the premium paid, the policy to which this Endorsement is attached is amended as follows:

SECTION II – WHO IS AN INSURED, Paragraph 4.e. is deleted and replaced with the following:

- e. Any person or organization, other than a third party carrier, you agree to include as an insured in a written contract, written agreement or permit, but only with respect to bodily injury, property damage, environmental damage or personal and advertising injury arising out of your operations, your work, equipment or premises leased or rented by you, or your products which are distributed or sold in the regular course of a vendor's business, however:
 - (1) A vendor is not an insured as respects bodily injury, property damage, environmental damage or personal and advertising injury:
 - (a) For which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement except that which the vendor would have in the absence of the contract or agreement;
 - (b) Arising out of any express warranty unauthorized by you;
 - (c) Arising out of any physical or chemical change in the product made intentionally by the vendor;
 - (d) Arising out of repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from you, and then repackaged in the original container;
 - (e) Arising out of any failure to make inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
 - (f) Arising out of demonstration, installation servicing or repair operations, except such operations performed at the vendor's location in connection with the sale of the product; or



IRONSHORE SPECIALTY INSURANCE COMPANY

175 Berkeley Street
Boston, MA 02116
Toll Free: (877) IRON411

Endorsement #

Policy Number: IEPW0031131600
Insured Name: Flotech Environmental, LLC

Effective Date of Endorsement: September 08, 2024

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS –
ONGOING OPERATIONS**

This endorsement modifies insurance provided under the following:

ENVIRONMENTAL PROTECTION INSURANCE COVERAGE PACKAGE (EPIC PAC)

In consideration of the premium paid, the policy to which this Endorsement is attached is amended as follows:

SCHEDULE

Name of Additional Insured Person(s) Or Organization(s)
Blanket where required by written contract

1. Solely as respects **SECTION I – COVERAGES, COVERAGE PART I – Coverage Specific Insuring Agreements and Exclusions, Coverages A, B, C, F and G and SECTION I – COVERAGES, COVERAGE PART II – MISCELLANEOUS COVERAGES, Coverage A, SECTION II – WHO IS AN INSURED, Paragraph 4.e.** is amended to include as an additional insured(s), the person(s) or organization(s) designated in the Schedule of this Endorsement, but only with respect to liability for bodily injury, property damage, environmental damage or personal and advertising injury caused, in whole or in part, by your ongoing operations for such additional insured.
2. With respect to the insurance afforded to such additional insured(s) designated in the Schedule of this Endorsement, **SECTION I – COVERAGES, COVERAGE PART I – Common Exclusions** is amended to add the following exclusion:

This insurance does not apply to any bodily injury, property damage or environmental damage occurring after:

- (1) All work, including materials, parts or equipment furnished in connection with such work, on a project (other than service, maintenance or repairs) to be performed by or on behalf of such additional insured(s) at the location of the covered operations has been completed; or



IRONSHORE SPECIALTY INSURANCE COMPANY

175 Berkeley Street
Boston, MA 02116
Toll Free: (877) IRON411

Endorsement #

Policy Number: IEPW0031131600
Insured Name: Flotech Environmental, LLC

Effective Date of Endorsement: September 08, 2024

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS –
COMPLETED OPERATIONS**

This endorsement modifies insurance provided under the following:

ENVIRONMENTAL PROTECTION INSURANCE COVERAGE PACKAGE (EPIC PAC)

In consideration of the premium paid, the policy to which this Endorsement is attached is amended as follows:

SCHEDULE

Name of Additional Insured Person(s) Or Organization(s)
Where required by written contract

Solely as respects **SECTION I – COVERAGES, COVERAGE PART I – Coverage Specific Insuring Agreements and Exclusions, Coverages A, B, C, F and G and SECTION I – COVERAGES, COVERAGE PART II – MISCELLANEOUS COVERAGES, Coverage A, SECTION II – WHO IS AN INSURED, Paragraph 4.e.** is amended to include as an additional insured(s), the person(s) or organization(s) designated in the Schedule of this Endorsement, but only with respect to liability for bodily injury, property damage, environmental damage or personal and advertising injury caused, in whole or in part, by your work performed for such additional insured(s) and included in the products-completed operations hazard.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS OF THIS POLICY REMAIN UNCHANGED.

a. Primary Insurance

This insurance is primary except when Paragraph **b.** below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in Paragraph **c.** below. However, regardless of whether **b.** below applies, in the event that a written contract or agreement or permit requires this insurance to be primary for any person or organization you agreed to insure and such person or organization is an insured under this policy, we will not seek contributions from any such other insurance issued to such person or organization.

b. Excess Insurance

(1) This insurance is excess over:

(a) Any of the other insurance, whether primary, excess, contingent or on any other basis:

(i) That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for **your work**;

(ii) That is Fire insurance for premises rented to you or temporarily occupied by you with permission of the owner;

(iii) That is insurance purchased by you to cover your liability as a tenant for **property damage** to premises rented to you or temporarily occupied by you with permission of the owner;

(iv) If the loss arises out of the maintenance or use of aircraft, autos or watercraft to the extent not subject to Exclusion a. of **COVERAGE PART I – Coverage A – General Bodily Injury And Property Damage Liability** or Exclusion a. of **COVERAGE PART IV – Professional Liability**; or

(v) That provides coverage for environmental or pollution liability to you or any person or organization qualifying as an insured under **SECTION II – WHO IS AN INSURED**, paragraphs **1., 4.a., or 4.g.**

(b) Any other primary insurance available to you covering liability for damages arising out of the premises or operations, or the products and completed operations, for which you have been added as an additional insured.

(c) Any project specific primary insurance available to you covering liability for damages arising out of **your work**, for which you are an insured

(2) When this insurance is excess, we will have no duty to defend the insured against any suit if any other insurer has a duty to defend the insured against that suit. If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

(3) When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

(a) The total amount that all such other insurance would pay for the loss in the absence of this insurance;

(b) The total of all deductible and self-insured amounts under all that other insurance; and

(c) The deductible and self-insured amounts under this insurance.

(4) We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this policy.

c. Method of Sharing

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts, excess of applicable deductible and self-insured amounts under all such insurance, until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

19. Premiums and Deductible

The first Named Insured shown in the Declarations:

a. Is responsible for the payment of all premiums;

b. Will be the payee for any return premiums we pay; and

c. Is responsible for the payment of all deductibles.

20. Representations

By accepting this policy, you agree:

- a. The statements in the Declarations are accurate and complete;
- b. Those statements are based upon representations you made to us; and
- c. We have issued this policy in reliance upon your representations.

21. Separation of Insureds

Except with respect to the Limits of Insurance, any insured versus insured exclusions, and any rights or duties specifically assigned in this policy to the first Named Insured, this insurance applies:

1. As if each Named Insured were the only Named Insured; and
2. Separately to each insured against whom **claim** is made or **suit** is brought.

22. Transfer of Rights of Recovery Against Others To Us

If the insured has rights to recover all or part of any payment we have made under this policy, those rights are transferred to us. At our request, the insured will bring **suit** or transfer those rights to us and help us enforce them. However, if the insured has waived rights of recovery against any person or organization prior to a loss, we waive any right of recovery we may have under this policy against such person or organization.

23. Transfer of Your Rights and Duties Under This Policy

Your rights and duties under this policy may not be transferred without our written consent except in the case of death of an individual named insured.

If you die, your rights and duties will be transferred to your legal representative but only while acting within the scope of duties as your legal representative. Until your legal representative is appointed, anyone having proper temporary custody of your property will have your rights and duties but only with respect to that property.

24. When We Do Not Renew

If we decide not to renew, we will mail or deliver to the first Named Insured shown in the Declarations written notice of the nonrenewal not less than sixty (60) days before the expiration date. If notice is mailed, proof of mailing will be sufficient proof of notice.

SECTION V – DEFINITIONS

1. Administration means:

- a. Providing information to **employees**, including their dependents and beneficiaries, with respect to eligibility for or the scope of **employee benefit programs**;
- b. Handling records in connection with the **employee benefit program**; or
- c. Effecting, continuing or terminating any **employee's** participation in any benefit included in the **employee benefit program**.

However, **administration** does not include handling payroll deductions.

2. Advertisement means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purposes of this definition:

- a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
- b. Regarding websites, only that part of a website that is about your goods, products or services for the purposes of attracting customers or supporters is considered an advertisement.

3. Auto means:

- a. A land motor vehicle, trailer or semitrailer designed for travel on public roads, including any attached machinery or equipment; or
- b. Any other land vehicle that is subject to a compulsory or financial responsibility law where it is licensed or principally garaged.

However, **auto** does not include **mobile equipment**.

4. **Bodily injury** means physical injury, sickness, disease, building-related illness, mental anguish, shock or emotional distress, sustained by any person, including death resulting therefrom. **Bodily injury** shall also include medical monitoring costs.
5. **Boundaries** means the area on, under or within the property lines bounding a **location** (including but not limited to any soil, groundwater body or surface water body on, under or within such bounded area).
6. **Claim** means a written demand, notice or assertion of a legal right alleging liability or responsibility on the part of the insured.
7. **Clean-up costs** means reasonable and necessary costs, charges and expenses, including associated **legal and claims expense payments** incurred with our prior written consent, incurred to investigate, remove, dispose of, treat, monitor or test soil, surface water, groundwater or other contaminated media but only:
 - a. To the extent required by **environmental laws** governing the liability or responsibilities of the insured to respond to a **pollution incident**;
 - b. In the absence of a. above, to the extent recommended in writing by an **environmental professional**;
 - c. To the extent incurred by the government or any political subdivision within Definition 9.a. of **coverage territory**; or
 - d. To the extent incurred by parties other than you.

Clean-up costs also includes **restoration costs**

Clean-up costs does not include costs, charges or expenses incurred by the insured for materials supplied or services performed by the insured unless such costs, charges or expenses are incurred with our prior written approval.
8. **Conveyance** means any **auto**, railcar, rolling stock, train, watercraft or aircraft. **Conveyance** does not include pipelines.
9. **Coverage territory** means:
 - a. The United States of America (including its territories and possessions), Puerto Rico, Canada and the Gulf of Mexico;
 - b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in Paragraph a. immediately above;
 - c. All other parts of the world if the injury or damage arises out of:
 - (1) The activities of a person whose home is in the territory described in Paragraph a. immediately above, but is away for a short time on your business; or
 - (2) **Personal and advertising injury** offenses that take place through the Internet or similar electronic means of communication;

provided the insured's responsibility to pay damages is determined in a **suit** on the merits, in the territory described in Paragraph a. immediately above or in a settlement we agree to; or
 - d. All other parts of the world if the injury or damage arises out of **your product**, a **pollution incident** caused by **your work** at any **location** which was not at any time owned or occupied by any insured, a **pollution incident** during **transportation** or a **pollution incident** on, at, under or migrating from a **non-owned site**, however:
 - (1) We assume no responsibility for furnishing certificates or evidence of insurance or bonds; and
 - (2) We will not be liable for any fine or penalty imposed on you for failing to comply with insurance laws.
10. **Disinfection event** means an outbreak of communicable virus (other than the novel coronavirus (SARS-CoV-2) that causes coronavirus disease 2019 (COVID-2019)) or communicable bacteria at a **location** that requires reporting by the insured of such outbreak to the applicable local, state or federal governmental or public health agency or entity. **Disinfection event** does not include any **pollution incident**.
11. **Disinfection expenses** means reasonable fees and costs incurred by the insured to retain third party qualified vendors to disinfect the actual presence of bacteria or virus at a **location** after a **disinfection event**.
12. **Emergency response expense** means reasonable and necessary expenses incurred in response to an imminent and substantial threat to human health or the environment resulting from a **pollution incident**, and expenses to investigate, remove, dispose of, contain, treat or test soil, surface water, groundwater or other contaminated media resulting from a **pollution incident**.

Emergency response expense shall not include **Bodily injury** or **Property damage**.
13. **Employee** includes a **leased worker** and a **temporary worker**. As respects Employee Benefits Administration Liability, **employee** also means a person actively employed, formerly employed, on leave of absence or disabled, or retired.

- 14. Employee benefits program** means a program providing some or all of the following benefits to **employees**, whether provided through a plan authorized by applicable law to allow employees to elect to pay for certain benefits with pre-tax dollars or otherwise:
- a. Group life insurance, group accident or health insurance, dental, vision and hearing plans, and flexible spending accounts, provided that no one other than an **employee** may subscribe to such benefits and such benefits are made generally available to those **employees** who satisfy the plan's eligibility requirements;
 - b. Profit sharing plans, employee savings plans, employee stock ownership plans, pension plans and stock subscription plans, provided that no one other than an **employee** may subscribe to such benefits and such benefits are made generally available to all **employees** who are eligible under the plan for such benefits;
 - c. Unemployment insurance, social security benefits, workers' compensation and disability benefits; and
 - d. Vacation plans, including buy and sell programs; leave of absence programs, including military, maternity, family, and civil leave; tuition assistance plans; transportation and health club subsidies
- 15. Environmental damage** means physical damage to land, **conveyances**, buildings or structures with foundations on land, the atmosphere, any watercourse or body of water including surface water or groundwater, giving rise to **clean-up costs** or **emergency response expense**. **Environmental damage** does not include **disinfection expenses**.
- 16. Environmental laws** means any federal, state, provincial, municipal or local laws, including, but not limited to, statutes, rules, ordinances, guidance documents, regulations and all amendments thereto, including state voluntary cleanup or risk based corrective action guidance, and governmental, judicial or administrative orders and directives, that are applicable to a **pollution incident**.
- 17. Environmental professional** means an individual approved and designated by us in writing who is duly certified or licensed in a recognized field of environmental science as required by a state board, a professional association, or both, who meet certain minimum qualifications and who maintain specified levels of errors and omissions insurance coverage acceptable to us. We shall consult with the insured in conjunction with the selection of the **environmental professional**.
- 18. Executive officer** means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.
- 19. Extended reporting period** means the claims reporting provision described in **SECTION IV – CONDITIONS**, Condition **12. Extended Reporting Period**.
- 20. Hostile fire** means one which becomes uncontrollable or breaks out from where it was intended to be.
- 21. Image restoration event** means a **pollution incident** which results in a newspaper or magazine publication or television news broadcast alleging responsibility on the part of you for such **pollution incident**.
- 22. Image restoration expenses** means reasonable public relations expenses incurred by you to restore public reputation and consumer confidence. **Image restoration expenses** shall include reasonable fees and expenses incurred by you for services rendered by public relations or crisis management firms as well as reasonable and necessary printing, mailing of materials and travel by your **executive officers**, directors, members, partners or **employees** at the direction of such firms. **Image restoration expenses** shall not include the costs to purchase advertising on television, in newspapers or in any other media.
- 23. Impaired property** means tangible property, other than **your product** or **your work**, that cannot be used or is less useful because:
- a. It incorporates **your product** or **your work** that is known or thought to be defective, deficient, inadequate or dangerous; or
 - b. You have failed to fulfill the terms of a contract or agreement;
- if such property can be restored to use by the repair, replacement, adjustment or removal of **your product** or **your work** or your fulfilling the terms of the contract or agreement.
- 24. Insured contract** means:
- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises in excess of thirty (30) consecutive days that indemnifies any person or organization for damage by fire, lightning or explosion to premises while rented to you or temporarily occupied by you with permission of the owner is not an **insured contract**;
 - b. A sidetrack agreement;
 - c. Any easement or license agreement;
 - d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;

- e. An elevator maintenance agreement; or
- f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for **bodily injury, property damage or environmental damage** to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph f. does not include that part of any contract or agreement that indemnifies an architect, engineer or surveyor for injury or damage arising out of:

- (1) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
- (2) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

25. **Insured site** means a **location** listed on the Insured Site Schedule Endorsement, if any, attached to this policy.
26. **Leased worker** means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. **Leased worker** does not include a **temporary worker**.
27. **Legal and Claims Expense Payments** means:
- a. All expenses we incur that are directly allocated to a particular **claim or suit**.
 - b. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the **claim or suit**, including actual loss of earnings up to \$500 a day because of time off from work.
 - c. All court costs taxed against the insured in the **suit**. However, these payments do not include attorneys' fees or attorneys' expenses taxed against the insured.
 - d. Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.
 - e. All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.
 - f. Expenses incurred by the insured for first aid administered to others at the time of any accident, for **bodily injury** to which this insurance applies.
28. **Loading or unloading** means the handling of property:
- a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or **auto**;
 - b. While it is in or on an aircraft, watercraft or **auto**; or
 - c. While it is being moved from an aircraft, watercraft or **auto** to the place where it is finally delivered;
- But **loading or unloading** does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or **auto**.
29. **Location** means premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway, waterway or right-of-way of a railroad.
30. **Misdelivery** means the delivery of any liquid product into a wrong receptacle or to a wrong address, or the erroneous delivery of one liquid product for another.
31. **Mobile equipment** means any of the following types of land vehicles, including any attached machinery or equipment:
- a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;
 - b. Vehicles maintained for use solely on or next to premises you own or rent;
 - c. Vehicles that travel on crawler treads;
 - d. Vehicles, whether self-propelled or not, maintained primarily to provide mobility to permanently mounted power cranes, shovels, loaders, diggers or drills or road construction or resurfacing equipment such as graders, scrapers or rollers;
 - e. Vehicles not described in a., b., c., or d. immediately above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:

(1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or

(2) Cherry pickers and similar devices used to raise or lower workers;

f. Vehicles not described in a., b., c., or d. immediately above maintained primarily for purposes other than the transportation of persons or cargo.

However, self-propelled vehicles with the following types of permanently attached equipment are not **mobile equipment** but will be considered **autos**:

(1) Equipment designed primarily for snow removal, road maintenance (but not construction or resurfacing) or street cleaning;

(2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and

(3) Air compressor, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

However **mobile equipment** does not include any land vehicles that are subject to a compulsory or financial responsibility law or other motor vehicle insurance law where it is licensed or principally garaged. Land vehicles subject to a compulsory or financial responsibility law or other motor vehicle insurance law are considered **autos**.

32. **Mold matter** means mold, mildew or fungi, whether or not such **mold matter** is living.

33. **Natural resource damage** means damages, sought by a governmental or tribal natural resource damage trustee who is authorized to act in such capacity by a natural resource damage statute governing the assessment and restoration of natural resource damages, for the physical injury to or destruction of, as well as the assessment of such injury or destruction, including the resulting loss of value of land, fish, wildlife, biota, air, water, groundwater, drinking water supplies, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States (including the resources of the fishery conservation zone established by the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.)), any State, Local or Provincial government, any foreign government, any Native American tribe, or, if such resources are subject to a trust restriction on alienation, any member of a Native American tribe. **Natural resource damage** does not include **environmental damage** or **emergency response expense**.

34. **Non-owned site**:

a. Means any **location** which:

(1) Was not at any time owned or occupied by any insured; and

(2) Which is not specifically scheduled as an **insured site**.

b. Does not include:

(1) Any **location** which is not licensed by the appropriate federal, state or local authority at the time such facility performs storage, disposal, processing or treatment of waste from your operations or **your work** in compliance with **environmental law**;

(2) Any **location** or any part thereof that has been subject to a consent order or corrective action under **environmental law** or is listed or proposed to be listed on the Federal National Priorities list (NPL) prior to waste from your operations or **your work** being legally consigned for delivery or delivered for storage, disposal, processing or treatment at such **location**;

(3) Any **location** of a purchaser or user of **your product**; or

(4) Any **location** that has been impacted by **pollutants** migrating from any **location** which was at any time owned or occupied by any insured, provided that this item (4) shall not apply to any **location** which was utilized by any insured to perform storage, disposal, processing or treatment of waste from your operations or **your work**.

35. **Nuclear material** means source material, special nuclear material or byproduct material which have the meanings given them in the Atomic Energy Act of 1954 or in any law amendatory thereof.

36. **Occurrence** means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.

37. **Personal and advertising injury** means injury, including consequential **bodily injury**, arising out of one or more of the following offenses:

a. False arrest, detention or imprisonment;

- b. Malicious prosecution;
 - c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies, committed by or on behalf of its owner, landlord or lessor;
 - d. Oral or written **publication** directly to the public at large of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
 - e. (1) Oral or written **publication** directly to the public at large of material that violates a person's right of privacy;
(2) Oral or written **publication** of material that violates a person's right of privacy by misappropriation of that person's name or likeness;
 - f. The use of another's advertising idea in your **advertisement**;
 - g. Infringing upon another's copyright, trade dress or slogan in your **advertisement**.
38. **Policy period** means the period of time stated in the Declarations. However, if the policy is cancelled in accordance with **SECTION IV – CONDITIONS**, Condition 3. **Cancellation**, the **policy period** ends on the effective date of such cancellation.
39. **Pollutants** means any solid, liquid, gaseous or thermal irritant, or contaminant, including smoke, soot, vapor, fumes, acids, alkalis, chemicals, hazardous substances, hazardous materials, or waste materials (including medical, infectious and pathological wastes). **Pollutants** shall also mean **mold matter**, legionella pneumophila and electromagnetic fields. With the exception of legionella pneumophila, **pollutants** shall not include bacteria or viruses.
40. **Pollution incident** means:
- a. The discharge, dispersal, release or escape of **pollutants** on, into or upon land, **conveyances**, buildings or structures with foundations on land, the atmosphere, any body of water including surface water or groundwater;
 - b. The discharge, dispersal, release, or escape of silt or sedimentation that originated at and migrated from a **location** where you are performing **your work**; or
 - c. The presence of **mold matter**.
- Pollution incident** includes the illicit abandonment of **pollutants** at any **location** which is owned or occupied by you provided that such abandonment was committed by parties other than an insured and without the knowledge of a **responsible executive**.
41. **Pre-claim event** means a **pollution incident** arising out of **your work** that would reasonably be expected to give rise to a **claim** covered by this policy.
42. **Pre-claim event expense** means:
- a. Reasonable and necessary fees charged by an **environmental professional** or attorney mutually agreed upon by the first named insured shown in the Declarations and us, for environmental consulting, investigative, testing or legal services, solely to the extent such fees are incurred as a result of a **pre-claim event**;
 - b. Costs, charges and expenses incurred by us in the investigation or adjustment of a **pre-claim event**; and
 - c. All reasonable and necessary expenses incurred by you at our request to assist us in the investigation of a **pre-claim event**, including your employees' lost salaries or wages, up to \$500 a day.
- Except as expressly set forth in this Definition, **pre-claim event expenses** shall not include costs, charges or other expenses incurred: prior to our agreement upon the selection of an **environmental professional** or attorney; or by you for goods supplied by or on behalf of your staff or salaried employees, or by your parent, subsidiary or affiliate, unless such costs, charges or other expenses are incurred with our prior written consent, which consent shall not be unreasonably withheld.
43. **Products - completed operations hazard**:
- a. Includes all **bodily injury**, **property damage** or **environmental damage** occurring away from a **location** you own or occupy and arising out of **your product** or **your work** except:
 - i. Products that are still in your physical possession; or
 - ii. Work that has not yet been completed or abandoned. However, **your work** will be deemed completed at the earliest of the following times:
 - (a) When all of the work called for in your contract has been completed.

(b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.

(c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

- b. Does not include **bodily injury, property damage or environmental damage** arising out of the transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the **loading or unloading** of that vehicle by any insured or the existence of tools, uninstalled equipment or abandoned or unused materials.

44. Product tampering is an act of intentional alteration of your product which has caused or is reasonably expected to cause **bodily injury, property damage or environmental damage**. When **product tampering** is known, suspected or threatened, a **product withdrawal** will be limited to those batches of **your product** which are known or suspected to have been tampered with.

45. Product withdrawal means the recall or withdrawal:

- a. From the market; or
- b. From use by any other person or organization;

of **your products**, or products which contain **your products**, because of known or suspected defects in **your product**, or known or suspected **product tampering**, which has caused or is reasonably expected to cause **bodily injury, property damage or environmental damage**.

46. Product withdrawal expenses means those reasonable and necessary extra expenses, listed below, paid and directly related to a **product withdrawal**:

- a. Costs of notification;
- b. Costs of stationery, envelopes, production of announcements and postage or facsimiles;
- c. Costs of overtime paid to your regular non-salaried employees and costs incurred by your **employees**, including costs of transportation and accommodations;
- d. Costs of hiring independent contractors and other temporary employees;
- e. Costs of transportation, shipping or packaging;
- f. Costs of warehouse or storage space; or
- g. Costs of proper disposal of **your products**, or products that contain **your products** that can not be reused, not exceeding your purchase price or your cost to produce the products.

47. Professional incident means any act, error or omission in the providing or failure to provide **professional services** by or on behalf of the insured.

48. Professional services means those services performed for a fee by you or those acting on your behalf, including but not limited to, architect, engineer, consultant, inspector, technician and surveyor that you or those acting on your behalf are qualified to perform for others and are consistent with your corporate statements of professional qualifications.

49. Property damage means:

- a. Physical injury to or destruction of tangible property, including all resulting loss of use and diminished value of that property. All such loss of use and diminished value shall be deemed to occur at the time of the physical injury that caused it;
- b. Loss of use of tangible property that is not physically injured or destroyed. All such loss of use shall be deemed to occur at the time of the **occurrence or pollution incident** that caused it; or
- c. **Natural resource damage**.

Property damage does not include **environmental damage or emergency response expense**

For the purpose of this insurance, electronic data is not tangible property. As used in this definition, electronic data means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CDROMS, tapes drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

50. **Publication** means an insured's act of disseminating or broadcasting material or information. Publication does not include the wrongful appropriation, interception or retrieval of material or information by a third party or the insured's dissemination or broadcasting of material or information to a person who is the subject of the material or the information.
51. **Responsible executive** means any officer, director, risk manager, partner, your manager of an **insured site**, your manager or supervisor responsible for environmental affairs, health and safety affairs, control or compliance or any other **employee** authorized by you to give or receive notice of an **occurrence** or **claim**.
52. **Restoration costs** means reasonable and necessary costs incurred by the insured with our prior written consent, to repair, restore or replace that particular part of real or personal property that is damaged solely by work performed in the course of incurring covered **clean-up costs** in response to a **pollution incident** to which this policy applies. No coverage for **Restoration costs** shall apply to any real or personal property which required removal, replacement or repair prior to being damaged during such work. **Restoration costs** shall not exceed the lesser of actual cash value of the particular part of the real or personal property which was damaged or the cost of repairing, restoring or replacing the damaged property with other property of like kind and quality. An adjustment for depreciation and the physical condition of such property immediately prior to being damaged during such work, including any damage which existed prior to the time at which such property was damaged by such work, shall be made by the company, in its reason judgment, in determining actual cash value. If a repair or replacement results in better than like kind or quality, we will not pay for the amount of the betterment, except to the extent:
- a. Such betterments of the damaged property entail the reasonable use of green building materials which are environmentally preferable and of similar quality to those materials which comprised the damaged property.
 - b. Such green building materials must be certified as such by an applicable national or international independent non-governmental certifying body, where such certification is available, or, in the absence of such certification, based on our judgment in our sole discretion.
53. **Suit** means a civil proceeding in which damages to which this insurance applies are alleged. **Suit** includes an arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent or any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.
54. **Temporary worker** means a person who is furnished to you to substitute for a permanent worker on leave or to meet seasonal or short-term workload conditions.
55. **Time-Element pollution incident** means a **pollution incident** demonstrable as having commenced at an identified time and place during the **policy period** provided:
- a. Such **pollution incident** does not originate or arise from, or relate to an **underground storage tank**; and
 - b. Such **pollution incident** is not (i) heat, smoke or fumes from a **hostile fire** or (ii) solely with respect to **bodily injury**, smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests.
56. **Transportation** means the movement, which occurs beyond the **boundaries** of any **location** which is owned or occupied by you, of goods, product, merchandise, supplies or waste in a **conveyance** by the insured or a third party carrier on behalf of the insured from the time of movement from the point of origin until delivery to the final destination. **Transportation** includes the movement, which occurs beyond the **boundaries** of any **location** which is owned or occupied by you, of goods, products, merchandise, supplies or waste into, onto or from a **conveyance**.
57. **Underground storage tank** means any tank, including any piping and appurtenances connected to the tank, located on, at or under an owned or occupied **location** or an **insured site** that has at least ten percent (10%) of its combined volume underground. **Underground storage tank** does not include:
- a. Septic tanks, sump pumps, or oil/water separators;
 - b. A tank that is enclosed within a basement or cellar, if the tank is upon or above the surface of the floor; or
 - c. Storm-water or wastewater collection systems.
58. **Volunteer worker** means a person who is not your **employee**, and who donates his or her work and acts at the direction of and within the scope of duties determined by you, and is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.
59. **Waste** means all waste and includes materials to be recycled, reconditioned or reclaimed.

60. Your product:

a. Means:

- (1) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:
 - a) You;
 - b) Others trading under your name; or
 - c) A person or organization whose business or assets you have acquired; and
- (2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

b. Includes:

- (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of **your product**; and
- (2) The providing of or failure to provide warnings or instructions.

61. Your work:

a. Means:

- (1) Work or operations performed by you or on your behalf; and
- (2) Materials, parts or equipment furnished in connection with such work or operations.

b. Includes:

- (1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of **your work**; and
- (2) The providing or failure to provide warnings or instructions.

IN WITNESS WHEREOF, the Insurer has caused this Policy to be executed and attested, but this Policy will not be valid unless countersigned by a duly authorized representative of the Insurer, to the extent required by applicable law.

Ironshore Specialty Insurance Company by:



Secretary



President



IRONSHORE SPECIALTY INSURANCE COMPANY

175 Berkeley Street
Boston, MA 02116
Toll Free: (877) IRON411

Endorsement # 11

Policy Number: IEP UW0031131600
Insured Name: Flotech Environmental, LLC

Effective Date of Endorsement: September 08, 2024

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**SPECIFIED ENTITY -
WAIVER OF RIGHTS OF RECOVERY**

This endorsement modifies insurance provided under the following:

ENVIRONMENTAL PROTECTION INSURANCE COVERAGE PACKAGE (EPIC PAC)

In consideration of the premium paid, the policy to which this Endorsement is attached is amended as follows:

SCHEDULE

Designated Person(s) Or Organization(s)
Where required by written contract

SECTION IV – CONDITIONS, Paragraph 22. Transfer of Rights of Recovery Against Others to Us, is amended to include the following as respects the designated person(s) or organization(s) indicated in the Schedule above:

In the event of any payment under this policy, we waive our right of recovery against the person(s) or organization(s) indicated in the Schedule above and with whom the insured has waived its right of recovery.

ALL OTHER TERMS, CONDITIONS AND EXCLUSIONS OF THIS POLICY REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY AND NON-CONTRIBUTORY LIABILITY INSURANCE

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured: FLOTECH ENVIRONMENTAL, LLC

Endorsement Effective Date: 09/08/2024

SCHEDULE

Name(s) Of Person(s) Or Organization(s):
WHERE REQUIRED BY WRITTEN CONTRACT.

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The following is added to Item 5. – “Other Insurance” of Item B. – “General Conditions” under Section IV – “Business Auto Conditions”:

e. Regardless of the provisions of Paragraph 5.a. through d. above, for any liability arising out of the ownership, maintenance, use, rental, lease, loan, hire or borrowing by an “insured” of a covered “auto” for which an “insured” is contractually obligated to provide primary insurance coverage to a client, this Coverage Form will be primary and non-contributory with respect to the Persons or Organizations in the schedule, regardless of the availability or existence of other collectible insurance under any other Coverage Form or policy that applies on a primary basis.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

COMMERCIAL AUTOMOBILE BROAD FORM ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

This endorsement modifies the Business Auto Coverage Form.

1. EXTENDED CANCELLATION CONDITION

Paragraph A.2.b. – CANCELLATION - of the COMMON POLICY CONDITIONS form IL 00 17 is deleted and replaced with the following:

- b. 60 days before the effective date of cancellation if we cancel for any other reason.

2. BROAD FORM INSURED

A. Subsidiaries and Newly Acquired or Formed Organizations As Insureds

The Named Insured shown in the Declarations is amended to include:

- 1. Any legally incorporated subsidiary in which you own more than 50% of the voting stock on the effective date of the Coverage Form. However, the Named Insured does not include any subsidiary that is an "insured" under any other automobile policy or would be an "insured" under such a policy but for its termination or the exhaustion of its Limit of Insurance.
- 2. Any organization that is acquired or formed by you and over which you maintain majority ownership. However, the Named Insured does not include any newly formed or acquired organization:
 - (a) That is an "insured" under any other automobile policy;
 - (b) That has exhausted its Limit of Insurance under any other policy; or
 - (c) 180 days or more after its acquisition or formation by you, unless you have given us written notice of the acquisition or formation.

Coverage does not apply to "bodily injury" or "property damage" that results from an "accident" that occurred before you formed or acquired the organization.

B. Employees as Insureds

Paragraph A.1. – WHO IS AN INSURED – of SECTION II – LIABILITY COVERAGE is amended to add the following:

- d. Any "employee" of yours while using a covered "auto" you don't own, hire or

borrow in your business or your personal affairs.

C. Lessors as Insureds

Paragraph A.1. – WHO IS AN INSURED – of SECTION II – LIABILITY COVERAGE is amended to add the following:

- e. The lessor of a covered "auto" while the "auto" is leased to you under a written agreement if:
 - (1) The agreement requires you to provide direct primary insurance for the lessor; and
 - (2) The "auto" is leased without a driver. Such leased "auto" will be considered a covered "auto" you own and not a covered "auto" you hire.
- However, the lessor is an "insured" only for "bodily injury" or "property damage" resulting from the acts or omissions by:
- 1. You;
 - 2. Any of your "employees" or agents; or
 - 3. Any person, except the lessor or any "employee" or agent of the lessor, operating an "auto" with the permission of any of 1. and/or 2. above.

D. Persons And Organizations As Insureds Under A Written Insured Contract

Paragraph A.1 – WHO IS AN INSURED – of SECTION II – LIABILITY COVERAGE is amended to add the following:

- f. Any person or organization with respect to the operation, maintenance or use of a covered "auto", provided that you and such person or organization have agreed under an express provision in a written "insured contract", written agreement or a written permit issued to you by a governmental or public authority to add such person or organization to this policy as an "insured". However, such person or organization is an "insured" only:

- (1) with respect to the operation, maintenance or use of a covered "auto"; and
- (2) for "bodily injury" or "property damage" caused by an "accident" which takes place after:
 - (a) You executed the "insured contract" or written agreement; or
 - (b) The permit has been issued to you.

3. FELLOW EMPLOYEE COVERAGE

EXCLUSION B.5. - FELLOW EMPLOYEE - of SECTION II - LIABILITY COVERAGE does not apply.

4. PHYSICAL DAMAGE - ADDITIONAL TEMPORARY TRANSPORTATION EXPENSE COVERAGE

Paragraph A.4.a. - TRANSPORTATION EXPENSES - of SECTION III - PHYSICAL DAMAGE COVERAGE is amended to provide a limit of \$50 per day for temporary transportation expense, subject to a maximum limit of \$1,000.

5. AUTO LOAN/LEASE GAP COVERAGE

Paragraph A. 4. - COVERAGE EXTENSIONS - of SECTION III - PHYSICAL DAMAGE COVERAGE is amended to add the following:

c. Unpaid Loan or Lease Amounts

In the event of a total "loss" to a covered "auto", we will pay any unpaid amount due on the loan or lease for a covered "auto" minus:

1. The amount paid under the Physical Damage Coverage Section of the policy; and
2. Any:
 - a. Overdue loan/lease payments at the time of the "loss";
 - b. Financial penalties imposed under a lease for excessive use, abnormal wear and tear or high mileage;
 - c. Security deposits not returned by the lessor;
 - d. Costs for extended warranties, Credit Life Insurance, Health, Accident or Disability Insurance purchased with the loan or lease; and
 - e. Carry-over balances from previous loans or leases.

We will pay for any unpaid amount due on the loan or lease if caused by:

1. Other than Collision Coverage only if the Declarations indicate that Comprehensive Coverage is provided for any covered "auto";
2. Specified Causes of Loss Coverage only if the Declarations indicate that Specified Causes of Loss Coverage is provided for any covered "auto"; or
3. Collision Coverage only if the Declarations indicate that Collision Coverage is provided for any covered "auto".

6. RENTAL AGENCY EXPENSE

Paragraph A. 4. - COVERAGE EXTENSIONS - of SECTION III - PHYSICAL DAMAGE COVERAGE is amended to add the following:

d. Rental Expense

We will pay the following expenses that you or any of your "employees" are legally obligated to pay because of a written contract or agreement entered into for use of a rental vehicle in the conduct of your business:

MAXIMUM WE WILL PAY FOR ANY ONE CONTRACT OR AGREEMENT:

1. \$2,500 for loss of income incurred by the rental agency during the period of time that vehicle is out of use because of actual damage to, or "loss" of, that vehicle, including income lost due to absence of that vehicle for use as a replacement;
2. \$2,500 for decrease in trade-in value of the rental vehicle because of actual damage to that vehicle arising out of a covered "loss"; and
3. \$2,500 for administrative expenses incurred by the rental agency, as stated in the contract or agreement.
4. \$7,500 maximum total amount for paragraphs 1., 2. and 3. combined.

7. EXTRA EXPENSE - BROADENED COVERAGE

Paragraph A.4. - COVERAGE EXTENSIONS - of SECTION III - PHYSICAL DAMAGE COVERAGE is amended to add the following:

e. Recovery Expense

We will pay for the expense of returning a stolen covered "auto" to you.

8. AIRBAG COVERAGE

Paragraph B.3.a. - EXCLUSIONS - of SECTION III - PHYSICAL DAMAGE COVERAGE does not apply to the accidental or unintended discharge of an airbag. Coverage is excess over any other collectible insurance or warranty specifically designed to provide this coverage.

9. AUDIO, VISUAL AND DATA ELECTRONIC EQUIPMENT - BROADENED COVERAGE

Paragraph C.1.b. - LIMIT OF INSURANCE - of SECTION III - PHYSICAL DAMAGE is deleted and replaced with the following:

- b. \$2,000 is the most we will pay for "loss" in any one "accident" to all electronic equipment that reproduces, receives or transmits audio, visual or data signals which, at the time of "loss", is:
 - (1) Permanently installed in or upon the covered "auto" in a housing, opening or other location that is not normally used by the "auto" manufacturer for the installation of such equipment;
 - (2) Removable from a permanently installed housing unit as described in Paragraph 2.a. above or is an integral part of that equipment; or
 - (3) An integral part of such equipment.

10. GLASS REPAIR - WAIVER OF DEDUCTIBLE

Under Paragraph D. - DEDUCTIBLE – of SECTION III – PHYSICAL DAMAGE COVERAGE the following is added:

No deductible applies to glass damage if the glass is repaired rather than replaced.

11. TWO OR MORE DEDUCTIBLES

Paragraph D.- DEDUCTIBLE – of SECTION III – PHYSICAL DAMAGE COVERAGE is amended to add the following:

If this Coverage Form and any other Coverage Form or policy issued to you by us that is not an automobile policy or Coverage Form applies to the same "accident", the following applies:

1. If the deductible under this Business Auto Coverage Form is the smaller (or smallest) deductible, it will be waived; or
2. If the deductible under this Business Auto Coverage Form is not the smaller (or smallest) deductible, it will be reduced by the amount of the smaller (or smallest) deductible.

12. AMENDED DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS

Paragraph A.2.a. - DUTIES IN THE EVENT OF AN ACCIDENT, CLAIM, SUIT OR LOSS of SECTION IV - BUSINESS AUTO CONDITIONS is deleted and replaced with the following:

- a. In the event of "accident", claim, "suit" or "loss", you must promptly notify us when the "accident" is known to:
 - (1) You or your authorized representative, if you are an individual;
 - (2) A partner, or any authorized representative, if you are a partnership;
 - (3) A member, if you are a limited liability company; or
 - (4) An executive officer, insurance manager, or authorized representative, if you are an organization other than a partnership or limited liability company.Knowledge of an "accident", claim, "suit" or "loss" by other persons does not imply that the persons listed above have such knowledge. Notice to us should include:
 - (1) How, when and where the "accident" or "loss" occurred;
 - (2) The "insured's" name and address; and
 - (3) To the extent possible, the names and addresses of any injured persons or witnesses.

13. WAIVER OF SUBROGATION

Paragraph A.5. - TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US of SECTION IV – BUSINESS AUTO CONDITIONS is deleted and replaced with the following:

5. We will waive the right of recovery we would otherwise have against another person or organization for "loss" to which this insurance applies, provided the "insured" has waived

their rights of recovery against such person or organization under a contract or agreement that is entered into before such "loss".

To the extent that the "insured's" rights to recover damages for all or part of any payment made under this insurance has not been waived, those rights are transferred to us. That person or organization must do everything necessary to secure our rights and must do nothing after "accident" or "loss" to impair them. At our request, the insured will bring suit or transfer those rights to us and help us enforce them.

14. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

Paragraph B.2. – CONCEALMENT, MISREPRESENTATION or FRAUD of SECTION IV – BUSINESS AUTO CONDITIONS - is deleted and replaced with the following:

If you unintentionally fail to disclose any hazards existing at the inception date of your policy, we will not void coverage under this Coverage Form because of such failure.

15. AUTOS RENTED BY EMPLOYEES

Paragraph B.5. - OTHER INSURANCE of SECTION IV – BUSINESS AUTO CONDITIONS - is amended to add the following:

- e. Any "auto" hired or rented by your "employee" on your behalf and at your direction will be considered an "auto" you hire. If an "employee's" personal insurance also applies on an excess basis to a covered "auto" hired or rented by your "employee" on your behalf and at your direction, this insurance will be primary to the "employee's" personal insurance.

16. HIRED AUTO – COVERAGE TERRITORY

Paragraph B.7.b.(5). - POLICY PERIOD, COVERAGE TERRITORY of SECTION IV – BUSINESS AUTO CONDITIONS is deleted and replaced with the following:

- (5) A covered "auto" of the private passenger type is leased, hired, rented or borrowed without a driver for a period of 45 days or less; and

17. RESULTANT MENTAL ANGUISH COVERAGE

Paragraph C. of - SECTION V – DEFINITIONS is deleted and replaced by the following:

"Bodily injury" means bodily injury, sickness or disease sustained by any person, including mental anguish or death as a result of the "bodily injury" sustained by that person.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**EARLIER NOTICE OF CANCELLATION
OR NONRENEWAL PROVIDED BY US**

This endorsement modifies insurance provided under the following:

**BUSINESS AUTO COVERAGE FORM
BUSINESS AUTO PHYSICAL DAMAGE COVERAGE FORM
GARAGE COVERAGE FORM
TRUCKERS COVERAGE FORM
MOTOR CARRIER COVERAGE FORM**

With respect to the coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

A. Under the **Cancellation** condition of the Common Policy Conditions, the time period is amended as follows:

We may cancel this policy by mailing or delivering to the first Named Insured written notice of cancellation at least:

1. 10 days before the effective date of cancellation if we cancel for nonpayment of premium; or
2. 60 days before the effective date of cancellation if we cancel for any other reason.

B. Under the Common Policy Conditions, the following condition is added:

WHEN WE DO NOT RENEW

When we do not renew this policy, we will mail or deliver to the first Named Insured written notice of the non renewal at least 60 days before the expiration date. If notice of nonrenewal is mailed, proof of mailing will be sufficient proof of notice.

Workers' Compensation and Employers' Liability Policy

Named Insured FLOTECH ENVIRONMENTAL, LLC 657 SOUTH DRIVE, SUITE #401 MIAMI SPRINGS FL 33168	Endorsement Number
	Policy Number Symbol: WCF Number: 5432-63-41
Policy Period 09/08/2024 to 09/08/2025	Effective Date of Endorsement 09/08/2024
Issued By (Name of Insurance Company) FEDERAL INSURANCE	
Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy. This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.	

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.

This agreement shall not operate directly or indirectly to benefit any one not named in the Schedule.

Schedule

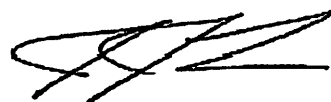
WHERE REQUIRED BY WRITTEN CONTRACT

For the states of CA, UT, TX, refer to state specific endorsements.

This endorsement is not applicable in KY, NH, and NJ.

The endorsement does not apply to policies in Missouri where the employer is in the construction group of code classifications. According to Section 287.150(6) of the Missouri statutes, a contractual provision purporting to waive subrogation rights against public policy and void where one party to the contract is an employer in the construction group of code classifications.

For Kansas, use of this endorsement is limited by the Kansas Fairness in Private Construction Contract Act(K.S.A. 16-1801 through 16-1807 and any amendments thereto) and the Kansas Fairness in Public Construction Contract Act(K.S.A 16-1901 through 16-1908 and any amendments thereto). According to the Acts a provision in a contract for private or public construction purporting to waive subrogation rights for losses or claims covered or paid by liability or workers compensation insurance shall be against public policy and shall be void and unenforceable except that, subject to the Acts, a contract may require waiver of subrogation for losses or claims paid by a consolidated or wrap-up insurance program.



Authorized Agent

Workers' Compensation and Employers' Liability Policy

Named Insured FLOTECH ENVIRONMENTAL, LLC 657 SOUTH DRIVE, SUITE #401 MIAMI SPRINGS FL 33166	Endorsement Number
	Policy Number Symbol: DCS Number: (24)5432-63-41
Policy Period 09-08-2024 TO 09-08-2025	Effective Date of Endorsement 09-08-2024
Issued By (Name of Insurance Company) FEDERAL INSURANCE	
Insert the policy number. The remainder of the information is to be completed only when this endorsement is issued subsequent to the preparation of the policy. This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.	

**EARLIER NOTICE OF CANCELLATION
OR NONRENEWAL PROVIDED BY US**

A. Under Condition D. Cancellation of Part Six, the time period is amended as follows:

We may cancel this policy by mailing or delivering to you written notice of cancellation at least:

1. 10 days before the effective date of cancellation if we cancel for non-payment of premium; or
2. 60 days before the effective date of cancellation if we cancel for any other reason.

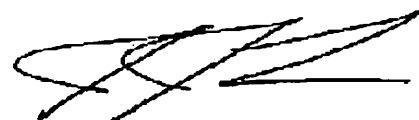
B. Under Part Six - Conditions of the policy, the following is added:

Notice of Nonrenewal

When we do not renew this policy, we will mail or deliver to you written notice of the nonrenewal at Least 60 days before the expiration date. Mailing that notice to you at your mailing address shown in Item 1 of the Information Page will be sufficient to prove notice.

State Exceptions

California Not Applicable



Authorized Representative