



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Consent

F.4.

4/21/2020

Subject:

Approval Re: Funding and Maintenance Agreement with The Viera Company and Central Viera Community Association; Joint Participation Agreement and Resolution with the State of Florida Department of Transportation; and Permission to Advertise, Award and Execute the Construction Contract for the Viera Boulevard Interstate 95 Interchange Landscaping Improvements - District 4

Fiscal Impact:

Up to \$758,276 Reimbursement from the Joint Participation Agreement with the State of Florida Department of Transportation for the landscaping installation. All other project costs, not reimbursed by the State, including the maintenance will be provided by The Viera Company. The County will not incur any costs associated with this project, including construction, Establishment Period, and maintenance.

Dept/Office:

Public Works Department/Finance and Contracts Administration

Requested Action:

It is requested the Board of County Commissioners: 1) approve and authorize the Chair to execute the Funding and Maintenance Agreement between Brevard County, The Viera Company, and the Central Viera Community Association and the Joint Participation Agreement and Resolution with the State of Florida Department of Transportation for the Landscaping Improvements on State Road 9 (Interstate 95) from South of Viera Boulevard Interchange to North of Viera Boulevard Interchange FM# 428238-2-58-01 and 428238-3-58-01; 2) grant permission to advertise, award to the lowest, responsive and responsible bidder and authorize the Chair to execute the construction contract, contingent upon review and approval by the County Attorney's Office and Risk Management for the landscaping improvements; and 3) approve any necessary Budget Change Requests associated with this request.

Summary Explanation and Background:

The project consists of the installation, Establishment Period, maintenance and associated work for the landscaping improvements on the Interstate 95/Viera Boulevard Interchange. The total cost of the installation and Establishment Period of the project is estimated at \$948,353. The Joint Participation Agreement with the State of Florida Department of Transportation (F.D.O.T.) will provide financial assistance to the County towards the installation costs in the amount not to exceed \$758,276 as detailed in Exhibit "B" of the Joint Participation Agreement.

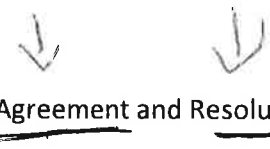
The Viera Company (T.V.C.) and the Central Viera Community Association have agreed to participate in the project. T.V.C. has agreed any costs exceeding the F.D.O.T. financial assistance amount, will be reimbursed to the County by T.V.C., including, but not limited to construction change orders, other construction related expenses, and the two-year Establishment Period. All these additional expenses are included in the

commitment of T.V.C. to the County as outlined in the Funding and Maintenance Agreement. T.V.C. has agreed to assume the maintenance obligations and associated maintenance costs for the project, per the standards in the Joint Participation Agreement following the completion of the two-year Establishment Period with such maintenance obligations intended to be assigned by T.V.C. to the Central Viera Community Association. The County will not incur any costs associated with the maintenance of the project.

Upon Board approval of the aforementioned agreements, funding for this project will be secured. Staff is requesting permission to advertise the construction bid. Per Board Policy-28, pre-qualification of the lowest, responsive and responsible bidder shall be conducted prior to the award with concurrence from F.D.O.T. It is further requested the Board authorize the Chair to execute the construction contract, contingent upon review and approval by the County Attorney's Office and Risk Management.

Clerk to the Board Instructions:

Please return the Funding and Maintenance Agreement and Joint Participation Agreement and Resolution to the Public Works Department.





Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972
Tammy.Rowe@brevardclerk.us

April 22, 2020

MEMORANDUM

TO: Corrina Gumm, Interim Public Works Director

RE: Item F.4., Approval for Funding and Maintenance Agreement with The Viera Company and Central Viera Community Association; Joint Participation Agreement and Resolution with the State of Florida Department of Transportation (FDOT); and Permission to Advertise, Award, and Execute the Construction Contract for the Viera Boulevard Interstate 95 Interchange Landscaping Improvements

The Board of County Commissioners, in regular session on April 21, 2020, approved and authorized the Chair to execute the Funding and Maintenance Agreement with The Viera Company and the Central Viera Community Association, the Joint Participation Agreement, and the adopted Resolution No. 20-033, with FDOT for the landscaping improvements on State Road 9 (Interstate 95) from South of Viera Boulevard Interchange to North Viera Boulevard Interchange FM#428238-2-58-01 and 428238-3-58-01; granted permission to advertise, award to the lowest, responsive and responsible bidder; authorized the Chair to execute the Construction Contract, contingent upon review and approval by the County Attorney's Office and Risk Management for the landscaping improvements; and approved any necessary budget change requests associated with this request. Enclosed are a fully-executed Joint Participation Agreement, Funding and Maintenance Agreement, and Resolution.

Upon execution by all parties, please return a fully-executed Funding and Maintenance Agreement to this office for inclusion of the official minutes.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Kimberly Powell, Deputy Clerk

Encls. (3)

cc: Contracts Administration
County Attorney
Risk Management
Finance
Budget

**LANDSCAPE FUNDING AND MAINTENANCE AGREEMENT
INTERSTATE 95/VIERA BLVD INTERCHANGE
LANDSCAPING IMPROVEMENTS**

THIS BACKUP FUNDING AGREEMENT FOR Interstate 95/VIERA BOULEVARD Interchange Landscaping Improvements (this "**Agreement**") is made and entered by and among the BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, a political subdivision of the State of Florida (hereinafter referred to as the "**County**") and THE VIERA COMPANY, a Florida corporation (hereinafter referred to as "**TVC**"), and CENTRAL VIERA COMMUNITY ASSOCIATION, INC., a Florida not-for-profit corporation ("**CVCA**").

A. The County has entered into that certain Joint Participation Agreement dated April 28, 2020 (hereinafter referred to as the "**Funding Agreement**") with the State of Florida Department of Transportation (hereinafter referred to as "**FDOT**") concerning the installation of landscaping along the interchange areas of Interstate 95 and Viera Boulevard (hereinafter referred to as the "**Project**"). The Project will be constructed in accordance with the plans entitled "Viera Boulevard / SR 9 (I 95) Diverging Diamond Interchange Landscape Plans signed and sealed on February 21, 2020 prepared by Susan Hall, ASLA Landscape Architecture, 4425 Crooked Mile Road, Merritt Island, FL 32952, and having Sheets 1 through 17, which have been approved by TVC, the County, and FDOT for the Project and the Specifications and Contract Documents signed and sealed by Susan Hall, ASLA Landscape Architecture (hereinafter collectively referred to as the "**Plans and Specifications**") A copy of the Funding Agreement is attached hereto as Exhibit "A" and incorporated herein by reference.

B. Under the terms of the Funding Agreement, FDOT has agreed to provide financial assistance to the County for the construction of the Project in the amount of Seven Hundred Fifty-Eight Thousand Two Hundred Seventy-Six and 00/100 Dollars (\$758,276.00) (hereinafter referred to as the "**Project Cost Funding Amount**") based upon the "Method of Compensation" attached to the Funding Agreement as an exhibit. The Funding Agreement does not provide financial assistance to the County for the two-year "Establishment Period" for the Project as defined in Section 2(ii) below (the "**Establishment Period**") nor for the maintenance of the Project.

C. In order to induce the County to commence and complete construction of the Project as specified in the Plans and Specifications and the Funding Agreement, TVC has agreed

(i) that in the event the cost of constructing the Project in accordance with the Plans and Specifications incurred by the County exceeds the Project Cost Funding Amount, TVC will reimburse the County for such excess in accordance with the terms and conditions hereinafter set forth, and (ii) TVC will reimburse the County for all costs associated with the Establishment Period in accordance with the terms and conditions hereinafter set forth.

D. In order to further induce the County to commence and complete construction of the Project as specified in the Plans and Specifications and the Funding Agreement, TVC has

agreed to assume the maintenance obligations and associated maintenance costs for the Project, per the standards in the Funding Agreement following the completion of the two-year Establishment Period on the terms and conditions hereinafter set forth, with such maintenance obligations intended to be assigned by TVC to CVCA as more particularly provided in this Agreement. The County shall not incur any costs associated with the maintenance of the Project.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

Section 1: Recitals

The recitals set forth hereinabove are true and correct in all respects and are incorporated herein by reference as if set forth herein verbatim.

Section 2: Project

The County agrees to undertake the construction and completion of the Project pursuant to the Plans and Specifications in accordance with the provisions of the Funding Agreement. The Project is further defined as follows:

(i) **“Project Construction”** shall mean the installation of landscaping and includes preparing all planting areas by removing sod, adding soil and adjusting grade for proper planting; purchasing all materials for the project and the installation of the landscaping improvements in accordance with the Plans and Specifications; provide all necessary engineering supervision, and otherwise perform all other necessary work to complete the Project, as specified in Exhibit “A” of the Funding Agreement.

(ii) **“Establishment Period”** shall mean the work activities performed in compliance with the Plans and Specifications related to the maintenance of the Project Construction following final completion of the landscape installation and shall be a period of two years.

(iii) **“Project Maintenance”** shall mean the work activities performed to maintain the Project in a reasonable manner and with due care in accordance with all applicable FDOT guidelines, standards, and procedures including but not limited to a) Procedure 850-000-015 Roadway and Roadside Maintenance; b) Procedure 850-065-002 Maintenance Rating Program Handbook; c) Guide for Roadside Vegetation Management; and as specified in the Funding Agreement and the Plans and Specifications.

Without limiting the generality of the preceding provisions in items (i), (ii) and (iii) immediately above, the County agrees to submit invoices to FDOT on a timely basis with respect to the Project Construction in accordance with the Funding Agreement, to complete the Project Construction on or before the expiration date or extensions

thereof provided for in the Funding Agreement, to provide to FDOT such data, reports, records, contracts and other documents relating to the Project as required under the Funding Agreement or as FDOT may otherwise require, and to carry out and complete the Project Construction in accordance with the schedule of funding approved by FDOT. The County shall also maintain records, comply with any and all state or federal audit requirements, and submit reports to FDOT and other governmental agencies concerning the Project as required by the Funding Agreement.

Section 3: Reimbursement by TVC for Project Costs

In the event the cost of constructing the Project in accordance with the Plans and Specifications incurred by the County exceeds the Project Cost Funding Amount, the County will provide TVC with an application for reimbursement (hereinafter referred to as a "**Cost Reimbursement Request**") in the amount of such excess. For purposes of this Agreement, the phrase "the costs of constructing the Project incurred by the County" means all out-of-pocket costs and expenses incurred by County in constructing and completing the Project in accordance with the Plans and Specifications, including Project Construction and Establishment Period.

A Cost Reimbursement Request for Project Construction shall provide a detailed listing of (i) all costs of constructing the Project incurred by the County, and (ii) all funds received by the County from FDOT pursuant to the Funding Agreement.

A Cost Reimbursement Request for Establishment Period shall provide a detailed listing of all costs of establishing the Project incurred by the County.

All Cost Reimbursement Requests shall also include reasonable and customary documentation for cost verification purposes. In the event TVC determines that any of the costs associated with the Project, in accordance with the Plans and Specifications, incurred by the County listed in a Cost Reimbursement Request cannot be reasonably verified based upon the documentation provided by the County, TVC shall notify the County within ten days of TVC's determination thereof and advise the County of the required documentation to verify the applicable cost. The County shall have thirty days from the date of its receipt of TVC's notice that a cost cannot be verified within which to provide TVC with the requested additional documentation to verify the cost. If TVC does not dispute the amounts requested by the County in a Cost Reimbursement Request, TVC shall cause such amounts to be paid to the County within thirty days after TVC's receipt of that Cost Reimbursement Request. However, if TVC disputes any amounts requested by the County in an Cost Reimbursement Request, then within thirty days after receipt of any additional documentation timely requested by TVC from County, TVC shall pay County the amount requested in the Cost Reimbursement Request (less any amounts which TVC reasonably disputes, explaining its objections with specificity, as not being properly documented or eligible for reimbursement hereunder). In the event TVC disputes any amounts due pursuant to the preceding sentence, the

parties agree to meet within ten days of TVC's delivery of partial payment and work diligently in good faith to resolve the dispute or other issue.

Section 4: Termination of Funding Agreement by FDOT

In the event FDOT terminates the Funding Agreement in whole or in part, the County shall promptly notify TVC of such termination and provide TVC with copies of all correspondence related to such termination. Upon any termination of the Funding Agreement, the County shall comply with all provisions of the Funding Agreement related to termination (including the repayment to FDOT of any over-payments).

Section 5: Security

The obligations of TVC under this Agreement shall be secured by either a surety bond in the amount of one hundred twenty-five percent (125%) of the current Project cost estimate of \$947,379.00 in form and content mutually agreed upon by TVC and the County or by a letter of credit issued by a national bank selected by TVC in the amount of one hundred twenty-five percent (125%) of the current Project cost estimate. TVC shall provide such surety bond or letter of credit to the County within fifteen business days after this Agreement has been fully executed. The County must be entitled to make presentment of and collect on any letter of credit utilized by TVC either (i) in person in Brevard County, Florida, (ii) by delivery by facsimile or other electronic transmission of a copy to a location outside of Brevard County, Florida (TVC acknowledges, however, that the County may elect to make presentment by facsimile or other electronic transmission copy as much as ten days in advance of any deadline date to avoid any delay or difficulties in collection).

Section 6: Maintenance

Upon the County's completion of the Project Construction in the manner required under this Agreement, the County shall provide TVC with a certified copy of the "as built" plans for the Project that satisfy the applicable requirements for those plans under the Funding Agreement (the "**As-Built Plans**"). Upon the County's completion of the two-year Establishment Period, TVC shall assume responsibility for maintaining the Project, which shall be maintained by TVC in good condition, appearance and repair to a standard not less than the maintenance requirements set forth under the Funding Agreement. . Notwithstanding the foregoing, the County, TVC, and CVCA acknowledge and agree that it is intended for TVC to assign its maintenance obligations for the Project under this Agreement to CVCA in the future, and it is anticipated that such assignment will occur following the two-year Establishment Period as provided for in the Plans and Specifications. CVCA joins in the execution of this Agreement to give its consent to the above-mentioned future assignment, and its assumption, of the maintenance obligations of TVC for the Project, and to agree to maintain the Project following such assignment and assumption in accordance with the maintenance requirements set forth in this Agreement.

Section 7: Notices

Any notices or other communications which may be required or desired to be given under the terms of this Agreement shall be in writing and shall be deemed to have been duly given if personally delivered, if delivered by a nationally recognized courier service (such as Federal Express or UPS), if delivered by electronic delivery provided the addressee himself or herself expressly acknowledges receipt of the electronic delivery (an automatic "read receipt" shall not constitute such an acknowledgement), or if mailed by United States certified mail, return receipt requested, postage prepaid, addressed to the respective party at the addresses set forth below:

To TVC:

The Viera Company

7380 Murrell Road

Suite 201

Viera, FL 32940

Attn: Todd J. Pokrywa, President

Benjamin E. Wilson, Esq.

Email: todd.pokrywa@viera.com and vieralegal@viera.com

To CVCA:

Central Viera Community Association, Inc.

7380 Murrell Road

Suite 201

Viera, FL 32940

Attn: Eva M. Rey, President

Email: eva.rey@viera.com

To the County:

Board of County Commissioners of Brevard County, Florida

2725 Judge Fran Jamison Way, Suite C301

Viera, FL 32940

Attn: County Manager

And a copy to:

Public Works Department

Contracts Administrator

2725 Judge Fran Jamison Way, Suite A201

Viera, FL 32940

Email: jeanette.scott@brevardfl.gov

Any notice so given, delivered or made by mail shall be deemed to have been duly given, delivered or made on the date the same is deposited in the United States mail in the manner specified hereinabove. Any notice which is not given, delivered or made by United States mail in the manner specified above shall be deemed to have been duly given, delivered or made upon actual receipt of the same by the party to whom the

same is to be given, delivered or made. Either party may change the address to which notices are to be sent to such party by written notice to the other party specifying such change of address.

Section 8: Effective Date

This Agreement shall be effective on the last signature date required set forth below.

Section 9: Indemnification and Insurance

Except where limited by law, TVC agrees that it will indemnify and save harmless the County from any and all liability, claims, damages, expenses, proceedings and causes of action of every kind and nature arising out of or connected with the Project by TVC or its employees, successors, assigns, or independent contractors. TVC agrees that it will, at its own expense, defend any and all actions, suits or proceedings which may be brought against the County in connection with TVC's use of the Project pursuant to this Agreement and that it will satisfy, pay and discharge any and all judgments that may be entered against the County in any such action or proceedings. TVC shall include in any contract for work upon or involving the Project that the contractor shall indemnify and hold harmless the County from liabilities, damages, losses and costs, including but not limited to attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the contractor and persons employed or utilized by the contractor in the performance of the contract. The parties acknowledge specific consideration has been exchanged for this provision.

TVC further agrees to provide and maintain at all times during the term of this Agreement, without cost or expense to the County, policies of General Liability insurance insuring TVC against any and all claims, demands or causes of action whatsoever for injuries received and damages to property in connection with the use, occupation, and management of the Project. Such policies of insurance shall insure TVC in an amount not less than one million dollars to cover any and all claims arising in connection with any one particular accident or occurrence. A certificate of such insurance policies shall be filed with the Public Works Department, 2725 Judge Fran Jamieson Way, Bldg. A 201, Viera, Florida, 32940, within ten days of the date Establishment Period completion and annually upon insurance renewal. The County shall be named as an additional insured on the policy that TVC secures and endorsed with a provision that entitles the County to thirty days written notice from the insurer of any change or cancellation in said policies. The County's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure or maintain the insurance required herein, nor serve as a waiver of any rights or defenses the County may have.

TVC shall also be required to include in any contract for work upon or involving the Project that the contractor is required to maintain, without cost or expense to the County, the following types of insurance. The policy limits required are to be considered minimum amounts:

General Liability insurance in an amount not less than one million dollars combined single limit for each occurrence;

Auto Liability insurance in an amount not less than one million dollars combined single limit for each occurrence; and

Workers' Compensation insurance (for statutory limits) as required by Florida Statutes, Chapter 440.

Nothing contained in this Agreement shall be construed as a waiver of County's right to the protections of and/or caps on damages afforded by sovereign immunity under Section 768.28, Florida Statutes, or other limitations imposed on the County's potential liability under state or federal law.

Section 10: Right to Audit

In the performance of this Agreement, TVC and any assignee shall respectively keep books, records and accounts of all activities related to the Agreement, in compliance with generally accepted accounting procedures. Books, records and accounts related only to the performance of this Agreement (and no other books, records, and accounts of TVC or any assignee) shall be open to inspection during regular business hours by an authorized representative of the County upon written notice to TVC or any assignee not less than five business days advance notice and shall be respectively retained by TVC and each assignee for a period of five years after termination of this Agreement. All books, records and accounts related to the performance of this Agreement shall be subject to the applicable provisions of the Florida Public Records Act, Chapter 119, Florida Statutes. All records or documents created by TVC or any assignee or provided to TVC or any assignee under the terms of this Agreement, are public records and TVC and any assignee agree to comply with any request for such public records or documents made in accordance with Section 119.07, Florida Statutes.

Section 11: Construction of Agreement

This Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument. Facsimile or electronically transmitted copies of this Agreement and the signatures thereon shall have the same force and effect as if the same were original documents. Facsimile or electronically transmitted signatures are acceptable and shall be deemed to be original signatures. The paragraph headings herein contained are inserted for convenience of reference only and shall not be deemed to be a part of this Agreement; the paragraph headings shall be ignored in construing and interpreting this Agreement. Whenever used herein, the singular number includes the plural, the plural the singular, and the use of any gender includes all genders. Provisions contained in this Agreement that, by their sense and context, are intended to survive the suspension or termination of this Agreement, shall so survive.

Section 12: Waiver of Rights

No failure or delay by a party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. Nothing contained herein shall be construed to imply a partnership, joint venture, principal and agent or employer and employee relationship between the parties. No provision in this Agreement shall provide to any person not a party to this Agreement any remedy, claim or cause of action, or create any third-party beneficiary rights against either party.

Section 13: Attorney's Fees

In the event of any legal action to enforce the terms of this Agreement, each party shall bear its own attorney's fees and costs.

Section 14: Venue and Non-Jury Trial

Venue for any action brought by any party to this Agreement to interpret, construe or enforce this Agreement shall be in a court of competent jurisdiction in and for Brevard County, Florida and any trial shall be non-jury. This Agreement and the interpretation and enforcement thereof shall be governed by and construed in accordance with the laws of the State of Florida.

Section 15: Severability

If any part of this Agreement is found invalid or unenforceable by any court, such invalidity or unenforceability shall not affect the other parts of this Agreement if the rights and obligations of the parties contained herein are not materially prejudiced and if the intentions of the parties can still be accomplished.

Section 16: Entirety

This Agreement is the subject of negotiation between the parties and should not be interpreted more favorably toward one party over the other. This Agreement represents the understanding and agreement of the parties in its entirety. There shall be no amendments to the Agreement unless such amendments are in writing and signed by both parties.

Section 17: Binding Effect

Each party represents to the other it has undertaken all necessary actions to execute this Agreement and has the legal authority to enter this Agreement and to undertake all obligations imposed on it. No party shall be responsible for failure or delay in performance hereunder if such delay or failure in performance is caused by conditions beyond such party's reasonable control, including without limitation fire, flood, riot, strikes, labor disputes, acts of God or of the public enemy, war or civil disturbances, or any future laws, rules, regulations or acts of any government (including any orders, rules or regulations issued by any official or agency of such government).

Section 18: Assignment

Neither party may assign this Agreement without the prior written consent and approval of the other party, excluding the assignment of TVC to CVCA as provided for in Section 6, Maintenance. Upon completion of a permitted assignment of this Agreement, the assignor shall be released from any and all obligations and duties under this Agreement arising from and after the assignment date, and the County shall thereafter look solely to the assignee for the performance of such assigned obligations and duties arising from and after the assignment date, including, without limitation, the indemnification and insurance provisions of Section 9 of this Agreement. The indemnification obligations of such assignee pursuant to Section 9 of this Agreement shall be limited to only the actions of such assignee and its employees and independent contractors, and not for the actions of other third parties, including TVC or any other applicable assignor.


Section 19: Disputes

All disputes related to this Agreement shall in the first instance be referred to the appropriate executives of each party for resolution.

(SIGNATURES ARE ON THE FOLLOWING PAGE.)

IN WITNESS WHEREOF, County, TVC and CVCA have caused this Agreement to be duly executed in their respective names as of the day and year written below.

ATTEST:


Scott Ellis, Clerk

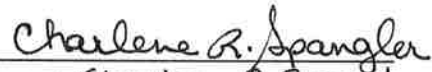
BOARD OF COUNTY COMMISSIONERS OF
BREVARD COUNTY, FLORIDA

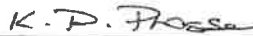
By: 
Bryan, Lober, Chair
As approved by the Board on: 4/21/2020

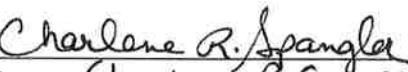
Approved as to legal form and content:


Assistant County Attorney

Witnesses:



Name: Charlene R. Spangler


Name: KAREN P. PROSSER

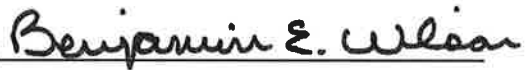

Name: Charlene R. Spangler


Name: KAREN P. PROSSER

THE VIERA COMPANY,
a Florida corporation

By: 
Name: Todd J. Pokrywa
Title: President

CENTRAL VIERA COMMUNITY ASSOCIATION,
INC.,
a Florida not-for-profit corporation

By: 
Name: Benjamin E. Wilson
Title: Vice President

(NOTARY ACKNOWLEDGEMENTS ARE ON
THE FOLLOWING PAGE.)

STATE OF FLORIDA)
)
COUNTY OF BREVARD)

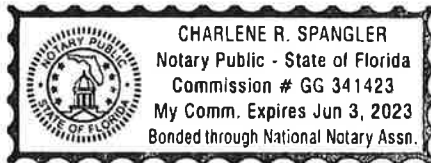
The foregoing instrument was acknowledged before me by means of physical presence or online notarization this 17th day of April 2020 by Todd J. Pokrywa, President of THE VIERA COMPANY, a Florida corporation, on behalf of said corporation. Said person is personally known to me.



Charlene R. Spangler
Print Name: Charlene R. Spangler
Notary Public, State of Florida
Commission No.: GG341423
My Commission Expires: 6/3/2023

STATE OF FLORIDA)
)
COUNTY OF BREVARD)

The foregoing instrument was acknowledged before me by means of physical presence or online notarization this 17th day of April 2020 by Benjamin E. Wilson, Vice President of CENTRAL VIERA COMMUNITY ASSOCIATION, INC., a Florida not-for-profit corporation, on behalf of said corporation. Said person is personally known to me.



Charlene R. Spangler
Print Name: Charlene R. Spangler
Notary Public, State of Florida
Commission No.: GG341423
My Commission Expires: 6/3/2023

Exhibit "A"

FM #428238-2-58-01; 428238-3-58-01
Page 1 of 29

Original Draft: 2/12/2020
Revised: 2/19/2020

Financial Management No.: 428238-2-58-01 428238-3-58-01 Agency: Brevard County Contract No: ASH64	Fund: DS Activity: 215 Contract Amount: \$758,276.00	FLAIR Approp: 088716 FLAIR Obj: 563000 Org. Code: 55054010508 Vendor No.: F596000523164
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JOINT PARTICIPATION AGREEMENT
BETWEEN
THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
AND
BREVARD COUNTY

This Agreement, made and entered into on 4/28/2020 | 12:58 PM EDT, by and between the **STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION** (hereinafter referred to as the DEPARTMENT) and **BREVARD COUNTY**, a Charter County and a political subdivision of the State of Florida (hereinafter referred to as the LOCAL GOVERNMENT),

WITNESSETH:

WHEREAS, the Parties have been granted specific legislative authority to enter into this Agreement pursuant to Section 339.12, Florida Statutes; and

WHEREAS, the LOCAL GOVERNMENT by Resolution No. 2020-033 dated April 21, 2020, a copy of which is attached hereto as Exhibit "F" and made a part hereof, has authorized its officers to execute this Agreement on its behalf.

WHEREAS, the DEPARTMENT is prepared, in accordance with its Five Year Work Program, to undertake the Project described as the "Landscaping Improvements on State Road 9 (Interstate 95) from South of Viera Boulevard Interchange to North of Viera Boulevard Interchange", in the DEPARTMENT'S Fiscal Year 2019/2020, said Project being known as FM#428238-2-58-01 and FM#428238-3-58-01, hereinafter referred to as the "Project"; and

WHEREAS, the Project is on the State Highway System, is not revenue producing and is contained in the adopted Five Year Work Program; and

WHEREAS, the implementation of the Project is in the interest of both the DEPARTMENT and the LOCAL GOVERNMENT and it would be most practical, expeditious, and economical for the LOCAL GOVERNMENT to perform the services to complete the Project; and;

WHEREAS, the intent of this Agreement is to establish the terms and conditions of the funding and the production of this Project.

NOW, THEREFORE, in consideration of the mutual benefits to be derived from the joint participation of this Agreement, the parties agree as follows:

1. **TERM**

A. The term of this Agreement shall begin upon the date of signature of the last party to sign. The LOCAL GOVERNMENT agrees to complete the Project by April 30, 2021, in accordance with the schedule described and contained in Exhibit "C" attached hereto. If the LOCAL GOVERNMENT does not complete the Project within the time period allotted, this Agreement will expire on the last day of the scheduled completion as provided in this paragraph unless an extension of the time period is requested by the LOCAL GOVERNMENT and granted in writing by the DEPARTMENT prior to the expiration of the Agreement. Expiration of this Agreement will be considered termination of the Project. After the Project is complete, the term of this Agreement shall continue in effect and be binding on the parties for maintenance responsibilities of the LOCAL GOVERNMENT. The DEPARTMENT will review the need for the LOCAL GOVERNMENT to continue maintenance of the Improvements on a five-year basis, and if it is determined by the DEPARTMENT that maintenance is no longer needed, the DEPARTMENT may unilaterally terminate the Agreement, upon thirty (30) days written notice to the LOCAL GOVERNMENT.

2. **SERVICES AND PERFORMANCES**

A. The LOCAL GOVERNMENT shall perform necessary preliminary engineering, prepare all design plans for the Project, perform the construction, provide all necessary engineering supervision, and otherwise perform all other necessary work to complete the Project, as specified in Exhibit "A" attached hereto and by this reference made a part hereof. All work provided by the LOCAL GOVERNMENT hereunder shall be undertaken consistent with and in accordance with the Terms & Conditions set forth in Exhibit "D" hereto. Nothing herein shall be construed as requiring the LOCAL GOVERNMENT to perform any activity which is outside of the scope of services of the Project.

B. In addition to the Terms & Conditions set forth in Exhibit “D”, the LOCAL GOVERNMENT agrees to undertake the design and construction of the Project in accordance with all applicable federal, state and local statutes, rules and regulations, including DEPARTMENT standards and specifications. The LOCAL GOVERNMENT agrees to use current Standard Plans, FDOT Design Manual, and Standard Specifications corresponding to the letting date (bid opening). The latest landscaping Special Provision Specification 580 can be found at:

<https://fdotewp1.dot.state.fl.us/SpecificationsPackage/Package/Workbook/LAPSpecificationSelection.aspx>

C. The landscaping design:

- i) Shall have more emphasis on trees and less on shrubs. Typically, more large trees and fewer shrubs can instantly increase “curb appeal” and wow factor of the landscaping. It can also cost much less to maintain than extensive masses of ornamental shrubs or other high maintenance material.
- ii) Does not prohibit shrubs. Shrubs can be used when and where they are part of the best design solution.
- iii) Consider the Right Plant, Right Place – does the palette fit the surroundings?

During the design process, the design plans will be reviewed by the Department to see if all guidelines are being followed.

D. This Agreement shall act to supersede the normal requirements of the LOCAL GOVERNMENT to secure separate DEPARTMENT permits for the landscaping described herein and this Agreement is deemed to constitute a permit for said work.

E. The LOCAL GOVERNMENT shall be responsible for obtaining clearances/permits required for the construction of the Project from the appropriate permitting authorities.

F. The LOCAL GOVERNMENT understands that they are responsible for the preparation of all design plans for the Project, at the expense of the LOCAL GOVERNMENT, suitable for reproduction on 11 inch by 17 inch sheets, together with a complete set of specifications covering all construction requirements for the Project. The LOCAL GOVERNMENT shall assure that the design, construction, installation, and maintenance is consistent with and meets all criteria and limitations of Rule 14-40.030,

Florida Administrative Code, as it relates to Vegetation Management at Outdoor Advertising Signs.

G. One (1) copy of the design plans shall be provided to the DEPARTMENT'S Design Project Manager. The DEPARTMENT shall review the plans for conformance to the DEPARTMENT'S requirements and feasibility within forty-five (45) days of delivery by the LOCAL GOVERNMENT. The DEPARTMENT'S review shall not be considered an adoption of the plans nor a substitution for the engineer's responsibility for the plans, however, all changes requested by the DEPARTMENT shall be made by the Engineer of Record/LOCAL GOVERNMENT with the understanding that final decision rest with the DEPARTMENT. All corrected plans shall be provided to the DEPARTMENT in a timely manner. The LOCAL GOVERNMENT shall provide a copy of the Final Bid documents to the DEPARTMENT within ten (10) days of the receipt of said documents. After acceptance of the plans and prior to commencing the work described herein, the LOCAL GOVERNMENT shall request a Notice to Proceed from D5-ConstructionSpecialProjects@dot.state.fl.us.

H. The LOCAL GOVERNMENT shall not advertise for bids until the DEPARTMENT issues the Notice to Proceed. **Any work performed prior to the issuance of the Notice to Proceed is not subject to reimbursement.**

I. The expenditure of funds pursuant to this Agreement shall comply with the terms of Section 334.044(26), Florida Statutes, as amended.

J. The LOCAL GOVERNMENT shall hire a DEPARTMENT Pre-qualified Landscape Contractor or, in accordance with the requirements set forth in Exhibit "D" and in accordance with the Special Provisions, as it may be amended from time to time, the LOCAL GOVERNMENT may hire an experienced qualified landscape contractor using the LOCAL GOVERNMENT'S normal bid procedures to perform the construction work for the Project.

- i) Illicit Discharge Training. All persons employed by the Contractor or Subcontractors working within the DEPARTMENT'S right-of-way shall have Tier 1 Illicit Discharge Detection and Elimination (IDDE) training. The computer based training is provided by video on the following web page: <http://www.dot.state.fl.us/emo/sched/train1.shtm>.

- ii) The LOCAL GOVERNMENT shall provide a list of persons trained prior to submittal of the first invoice. The LOCAL GOVERNMENT shall provide an updated list of new Contractor/Subcontractor employees annually thereafter.

K. The LOCAL GOVERNMENT shall hire a DEPARTMENT Pre-qualified Consultant Construction Engineering Inspection firm (hereinafter "CCEI") to perform construction oversight including the obligation to assure that any and all verification testing is performed in accordance with the Standard Specifications for Road and Bridge Construction, current edition, and as amended from time to time. The LOCAL GOVERNMENT'S Attorney shall certify to the DEPARTMENT that selection has been accomplished in compliance with the Consultants' Competitive Negotiation Act, Section 287.055, Florida Statutes. The DEPARTMENT shall have the right, but not the obligation, to perform independent assurance testing during the course of construction of the Project. The CCEI firm shall not be the same firm as that of the Engineer of Record for the Project.

L. The LOCAL GOVERNMENT shall require the LOCAL GOVERNMENT'S contractor to post a bond in accordance with Section 337.18(1), Florida Statutes.

M. The LOCAL GOVERNMENT shall be responsible to ensure that the construction work under this Agreement is performed in accordance with the approved construction documents, and that it will meet all applicable DEPARTMENT standards and that the work is performed in accord with the Terms and Conditions contained in Exhibit "D".

N. If the LOCAL GOVERNMENT utilizes its own work force for any services for the Project, all costs and expenses thereof shall not be subject to reimbursement.

O. Upon request, the LOCAL GOVERNMENT agrees to provide progress reports to the DEPARTMENT in the standard format used by the LOCAL GOVERNMENT and at intervals established by the DEPARTMENT. The DEPARTMENT will be entitled at all times to be advised, at its request, as to the status of the Project being constructed by the LOCAL GOVERNMENT and of details thereof. Either party to the Agreement may request and shall, within a reasonable time thereafter, be granted a conference with the other party.

P. Upon completion of the work authorized by this Agreement, the LOCAL GOVERNMENT shall notify the DEPARTMENT in writing of the completion; and for all design work that originally required certification by a Registered Landscape Architect, this notification shall contain a Landscape Architect's Certification of Compliance, signed and

sealed by a Registered Landscape Architect, the form of which is attached hereto as Exhibit "E". The certification shall state that work has been completed in compliance with the Project construction plans and specifications. If any deviations are found from the accepted plans, the certification shall include a list of all deviations along with an explanation that justifies the reason to accept each deviation.

3. MAINTENANCE

A. The DEPARTMENT and the LOCAL GOVERNMENT agree that until such time as the landscaping and all other improvements constructed or installed in the Department's Right of Way need to be removed from the Right of Way, the LOCAL GOVERNMENT shall, at all times, maintain the Project in a reasonable manner and with due care in accordance with all applicable DEPARTMENT guidelines, standards, and procedures (Project Standards) including but not limited to a) Procedure 850-000-015 Roadway and Roadside Maintenance; b) Procedure 850-065-002 Maintenance Rating Program Handbook; c) Guide for Roadside Vegetation Management; and as herein below specified.

- i) The LOCAL GOVERNMENT hereby agrees to have the landscaping installed on the Project as specified in the Landscape Plan(s). Such installation shall be in conformance with Florida Administrative Code Rule 14-40.003, as it may be amended from time to time. The LOCAL GOVERNMENT shall not change or deviate from said plan(s) without written approval of the DEPARTMENT.
- ii) The LOCAL GOVERNMENT agrees to maintain the landscaping installed by the Project in accordance with the Landscape Maintenance Plan(s). Said maintenance will be in accordance with Florida Administrative Code Rule 14-40.003, as it may be amended from time to time. The LOCAL GOVERNMENT'S responsibility for maintenance shall be consistent with the requirements of Florida Administrative Code Rule 14.40.003(5), as it may be amended from time to time. The maintenance functions to be performed by the LOCAL GOVERNMENT shall be subject to periodic inspections by the DEPARTMENT. The LOCAL GOVERNMENT shall not change or

deviate from said plan(s) without written approval of the DEPARTMENT.

- iii) The LOCAL GOVERNMENT shall have the continuous obligation to monitor the maintenance of traffic pursuant to the Standard Plans Index Series 102, and Rule 14-40.003, Florida Administrative Code, as it may be amended from time to time, during the course of the maintenance functions so that the safe and efficient movement of the traveling public is maintained. During maintenance functions, the LOCAL GOVERNMENT shall take measures, including the placing and display of safety devices that are necessary in order to safely conduct the public through the maintenance area in accordance with the latest and current version of the Federal Highway Administration Manual on Uniform Traffic Control Devices for Streets and Highways, and the DEPARTMENT'S Standard Specifications for Road and Bridge construction, current edition, and the DEPARTMENT'S current Standard Plans, pursuant to the latest spec and standard plans based on the date of the letting (bid opening).
- iv) If at any time after the LOCAL GOVERNMENT has assumed the landscaping installation or maintenance responsibility above-mentioned, it shall come to the attention of the DEPARTMENT that the Project, as will be designed by the LOCAL GOVERNMENT, or a part thereof is not properly installed or maintained pursuant to the terms of this Agreement, the District Secretary or his/her designee may issue a written notice that a deficiency or deficiencies exist(s), by sending a certified letter to the LOCAL GOVERNMENT to place said LOCAL GOVERNMENT on notice thereof. Thereafter, the LOCAL GOVERNMENT shall have a period of thirty (30) calendar days within which to correct the cited deficiencies. If said deficiencies are not corrected within this time period, the DEPARTMENT may terminate the Agreement, in which case the LOCAL GOVERNMENT shall at its own expense and within sixty (60) calendar days after written notice by

the DEPARTMENT, remove all of the landscaping that the DEPARTMENT directs be removed and return the Right-of-Way to its original condition. The LOCAL GOVERNMENT will own such materials it removes and the DEPARTMENT shall own any materials remaining. If the LOCAL GOVERNMENT fails to timely remove the landscaping that the DEPARTMENT has directed to be removed, then the DEPARTMENT shall be deemed to own the landscaping materials and may remove the materials at the expense of the LOCAL GOVERNMENT.

- v) It is understood between the parties hereto that the landscaping covered by this Agreement may be removed, relocated or adjusted by the DEPARTMENT at any time in the future as determined to be necessary by the DEPARTMENT in order that the state road be widened, altered or otherwise changed to meet with future criteria or planning of the DEPARTMENT. The LOCAL GOVERNMENT shall be given sixty (60) calendar days notice to remove said landscaping after which time the DEPARTMENT may remove the same.

4. COMPENSATION AND REIMBURSEMENT

A. Project Cost: The total estimated cost of the Project is **\$948,353.00 (Nine Hundred Forty Eight Thousand Three Hundred Fifty Three Dollars and No/100)**. The DEPARTMENT agrees to compensate the LOCAL GOVERNMENT for services described in Exhibit "A", Scope of Services. The Method of Compensation is included in Exhibit "B" attached hereto.

B. DEPARTMENT Participation: The DEPARTMENT agrees to reimburse the LOCAL GOVERNMENT in an amount not to exceed **\$758,276.00 (Seven Hundred Fifty Eight Thousand Two Hundred Seventy Six Dollars and No/100)** for actual costs incurred, excluding LOCAL GOVERNMENT overhead. The funding for this Project is contingent upon annual appropriation by the Florida Legislature. Notwithstanding the fact that said work is not reimbursable, any and all additional work to be performed by the LOCAL GOVERNMENT within the limits of this Project shall be included in the LOCAL GOVERNMENT'S DEPARTMENT accepted plans and in Exhibit "A", Scope of Services.

No work may be performed in the Department's Right of Way that has not specifically been approved by the Department. The LOCAL GOVERNMENT agrees to bear all expenses in excess of the DEPARTMENT'S participation. Travel costs will not be reimbursed.

C. The LOCAL GOVERNMENT shall provide quantifiable, measurable, and verifiable units of deliverables. Each deliverable must specify the required minimum level of service to be performed and the criteria for evaluating successful completion. The Project, identified as Project Number 428238-2-58-01 and 428238-3-58-01, and the quantifiable, measurable, and verifiable units of deliverables are described more fully in Exhibit "A", Scope of Services.

D. Invoices shall be submitted by the LOCAL GOVERNMENT in detail sufficient for a proper pre-audit and post-audit thereof, based on the quantifiable, measurable, and verifiable deliverables as established in Exhibit "A", Scope of Services. Deliverables must be received and accepted in writing by the Department's Project Manager or designee prior to payment.

E. Supporting documentation must establish that the deliverables were received and accepted in writing by the LOCAL GOVERNMENT and must also establish that the required minimum level of service to be performed based on the criteria for evaluating successful completion as specified in Exhibit "A", Scope of Services was met.

F. There shall be no reimbursement for travel expenses under this Agreement.

G. Payment shall be made only after receipt and approval of goods and services unless advance payments are authorized by the Chief Financial Officer of the State of Florida under Chapters 215 and 216, Florida Statutes. If the DEPARTMENT determines that the performance of the LOCAL GOVERNMENT is unsatisfactory, the DEPARTMENT shall notify the LOCAL GOVERNMENT of the deficiency to be corrected, which correction shall be made within a timeframe to be specified by the DEPARTMENT. The LOCAL GOVERNMENT shall, within five (5) days after notice from the DEPARTMENT, provide the DEPARTMENT with a corrective action plan describing how the LOCAL GOVERNMENT will address all issues of contract non-performance, unacceptable performance, failure to meet the minimum performance levels, deliverable deficiencies, or contract non-compliance. If the corrective action plan is unacceptable to the DEPARTMENT, the LOCAL GOVERNMENT shall be assessed a non-performance

retainage equivalent to ten percent (10%) of the total invoice amount. The retainage shall be applied to the invoice for the then-current billing period. The retainage shall be withheld until the LOCAL GOVERNMENT resolves the deficiency. If the deficiency is subsequently resolved, the LOCAL GOVERNMENT may bill the DEPARTMENT for the retained amount during the next billing period. If the LOCAL GOVERNMENT is unable to resolve the deficiency, the funds must be forfeited at the end of the Agreement term.

i) All costs charged to the Project by the LOCAL GOVERNMENT shall be supported by detailed invoices, proof of payments, contracts or vouchers evidencing in sufficient detail the nature and propriety of the charges.

ii) The LOCAL GOVERNMENT must submit the final invoice on the Project to the Department within 120 days after the completion of the Project. Invoices submitted after the 120-day time period may not be paid.

H. The LOCAL GOVERNMENT providing goods and services to the DEPARTMENT should be aware of the following time frames. Inspection and approval of goods or services shall take no longer than twenty (20) working days, upon receipt of an invoice. The DEPARTMENT has twenty (20) days to deliver a request for payment (voucher) to the Department of Financial Services. The twenty (20) days are measured from the latter of the date the invoice is received or the goods or services are received, inspected and approved.

I. If a payment is not available within forty (40) days, a separate interest penalty at a rate as established pursuant to Section 55.03(1), Florida Statutes, will be due and payable, in addition to the invoice amount to the LOCAL GOVERNMENT. Interest penalties of less than one dollar (\$1.00) will not be enforced unless the LOCAL GOVERNMENT requests payment. Invoices which have to be returned to the LOCAL GOVERNMENT because of LOCAL GOVERNMENT preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the DEPARTMENT.

J. A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for the LOCAL GOVERNMENT who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 413-5516.

K. Records of costs incurred under terms of this Agreement shall be maintained and made available upon reasonable request to the DEPARTMENT at all times during the period of this Agreement and for five (5) years after final payment is made. Copies of these documents and records shall be furnished to the DEPARTMENT upon request. Records of costs incurred include the LOCAL GOVERNMENT'S general accounting records and the Project records, together with supporting documents and records, of all subcontractors performing work on the Project, and all other records of the subcontractors considered necessary by the DEPARTMENT for a proper audit of costs. Any discrepancies revealed by any such audit shall be resolved by a corrected final billing from the LOCAL GOVERNMENT to the DEPARTMENT.

L. In the event this Agreement is in excess of \$25,000.00 (TWENTY-FIVE THOUSAND DOLLARS AND NO/100) and a term for a period of more than one (1) year, the provisions of Section 339.135(6)(a), Florida Statutes, are hereby incorporated as follows:

“The DEPARTMENT, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The DEPARTMENT shall require a statement from the Comptroller of the Department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding one (1) year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the DEPARTMENT which are for an amount in excess of \$25,000.00 and which have a term for a period of more than one (1) year.”

M. The contractor/consultant/vendor agrees to comply with s.20.055(5), Florida Statutes, and to incorporate in all subcontracts the obligation to comply with s.20.055(5), Florida Statutes.

N. The DEPARTMENT'S performance and obligation to pay under this contract is contingent upon an annual appropriation by the Florida Legislature. The parties agree that in the event funds are not appropriated to the DEPARTMENT for the Project, this Agreement may be terminated, which shall be effective upon the DEPARTMENT giving notice to the LOCAL GOVERNMENT to that effect.

O. If the DEPARTMENT determines that the performance of the LOCAL GOVERNMENT is not satisfactory, the DEPARTMENT shall have the option of (a) immediately terminating the Agreement, or (b) notifying the LOCAL GOVERNMENT of the deficiency with a requirement that the deficiency be corrected within a specified time, otherwise the Agreement will be terminated at the end of such time, or (c) taking whatever action is deemed appropriate by the DEPARTMENT.

5. COMPLIANCE WITH LAWS

A. The LOCAL GOVERNMENT shall allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the LOCAL GOVERNMENT in conjunction with this Agreement. Failure by the LOCAL GOVERNMENT to grant such public access shall be grounds for immediate unilateral cancellation of this Agreement by the DEPARTMENT.

B. The LOCAL GOVERNMENT shall comply with all federal, state and local laws and ordinances applicable to the work or payment for work thereof. The LOCAL GOVERNMENT shall not discriminate on the grounds of race, color, religion, sex or national origin in the performance of work under this contract.

C. No funds received pursuant to this Agreement may be expended for lobbying the Legislature, the judicial branch, or a state agency.

D. The LOCAL GOVERNMENT and the DEPARTMENT agree that the LOCAL GOVERNMENT, its employees, and subcontractors are not agents of the DEPARTMENT as a result of this contract.

6. TERMINATION AND DEFAULT

A. This Agreement may be canceled by the DEPARTMENT in whole or in part, at any time the interest of the DEPARTMENT requires such termination. The DEPARTMENT also reserves the right to seek termination or cancellation of this Agreement in the event the LOCAL GOVERNMENT shall be placed in either voluntary or involuntary

bankruptcy. The DEPARTMENT further reserves the right to terminate or cancel this Agreement in the event an assignment is made for the benefit of creditors.

B. If the DEPARTMENT determines that the performance of the LOCAL GOVERNMENT is not satisfactory, the DEPARTMENT shall have the option of (a) immediately terminating the Agreement, or (b) notifying the LOCAL GOVERNMENT of the deficiency with a requirement that the deficiency be corrected within a specified time, otherwise the Agreement will be terminated at the end of such time, or (c) taking whatever action is deemed appropriate by the DEPARTMENT.

C. If the DEPARTMENT requires termination of the Agreement for reasons other than unsatisfactory performance of the LOCAL GOVERNMENT, the DEPARTMENT shall notify the LOCAL GOVERNMENT of such termination, with instructions to the effective date of termination or specify the stage of work at which the Agreement is to be terminated.

D. If the Agreement is terminated before performance is completed, the LOCAL GOVERNMENT shall be paid only for the percentage of the Project satisfactorily performed for which costs can be substantiated. Such payment, however, shall not exceed the equivalent percentage of the contract price. All work in progress will become the property of the DEPARTMENT and will be turned over promptly by the LOCAL GOVERNMENT.

7. MISCELLANEOUS

A. In no event shall the making by the DEPARTMENT of any payment to the LOCAL GOVERNMENT constitute or be construed as a waiver by the DEPARTMENT of any breach of covenant or any default which may then exist, on the part of the LOCAL GOVERNMENT, and the making of such payment by the DEPARTMENT while any such breach or default shall exist shall in no way impair or prejudice any right or remedy available to the DEPARTMENT with respect to such breach or default.

B. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Florida. Any provision herein determined by a court of competent jurisdiction, or any other legally constituted body having jurisdiction, to be invalid or unenforceable shall be severable and the remainder of this Agreement shall remain in full force and effect, provided that the invalidated or unenforceable provision is not material to the intended operation of this Agreement.

C. This Agreement shall be effective upon execution by both parties and shall continue in effect and be binding on the parties until the Project is completed, any subsequent litigation is complete and terminated, final costs are known, and legislatively appropriated reimbursements, if approved, are made by the DEPARTMENT. The DEPARTMENT may, at any stage, amend or terminate the Project in whole or in part if the DEPARTMENT determines that such action is in the best interest of the public.

D. PUBLIC ENTITY CRIME INFORMATION AND ANTI-DISCRIMINATION STATEMENT: A person or affiliate 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 a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list. An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity.

E. The DEPARTMENT and the LOCAL GOVERNMENT acknowledge and agree to the following:

i) The LOCAL GOVERNMENT shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the LOCAL GOVERNMENT during the term of the contract; and

ii) The LOCAL GOVERNMENT shall expressly require any contractors and subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the

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Page 15 of 29
2/19/2020

Original Draft: 2/12/2020
Revised:

employment eligibility of all new employees hired by the contractor/subcontractor during the contract term.

F. All notices required pursuant to the terms hereof shall be sent by First Class United States Mail, facsimile transmission, hand delivery, express mail or electronic mail (e-mail). Unless prior written notification of an alternate address for notices is sent, all notices shall be sent to the following addresses:

DEPARTMENT

Point of Contact:

District 5 Local Programs
719 South Woodland Boulevard, M.S. 4-520
DeLand, Florida 32720-6834
(386) 943-5520
D5-LocalPrograms@dot.state.fl.us

LOCAL GOVERNMENT

Jeanette Scott
Contracts Administrator
Public Works Department
2725 Judge Fran Jamieson Way
Building A, Room 201
Viera, Florida 32940
321-617-7202
Jeanette.Scott@brevardfl.gov

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2/19/2020

Original Draft: 2/12/2020
Revised:

IN WITNESS WHEREOF, the LOCAL GOVERNMENT has executed this Agreement on April 21, 2020, and the DEPARTMENT has executed this Agreement on _____.

**BREVARD COUNTY
BOARD OF COUNTY COMMISSIONERS**

By: See attached signature page

Name: _____

Title: _____

As approved by the Board on:

Attest:

Legal Review:

Local Government Attorney

**STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION**

DocuSigned by:
Loreen C. Bobo
1EBD7ED7E5924D5...

Name: Loreen C. Bobo, P.E.

Title: Director of Transportation Development

Attest:

DocuSigned by:
Norma Mejias
Executive Secretary

Legal Review:

DocuSigned by:
Daniel McDermott
585E81E26BBA45C...

Authorization Received from the Office of
the Comptroller as to Availability of Funds:


April 24, 2020

Joint Participation Agreement
FM#428238-2-58-01 and 428238-3-58-01

Signature Page: Brevard County (Local Government)

By: 
Bryan Lober, Chair
As approved by the Board on: 4/21/2020

Attest:


Scott Ellis, Clerk

Reviewed for legal form and content:


Jad Brewer, Assistant County Attorney

Exhibit "A"

SCOPE OF SERVICES

Financial Management Numbers: 428238-2-58-01 and 428238-3-58-01

PROJECT DESCRIPTION:

The LOCAL GOVERNMENT shall cause to be installed landscaping and other improvements within the Right of Way of "State Road 9 (Interstate 95) from South of Viera Boulevard Interchange to North of Viera Boulevard Interchange" (Section 70220000: Milepost 33.465 to Milepost 34.305). The LOCAL GOVERNMENT will also be responsible for providing consultant construction engineering and inspection services.

The landscaping design:

- i) Shall have more emphasis on trees and less on shrubs. Typically, more large trees and fewer shrubs can instantly increase "curb appeal" and wow factor of the landscaping. It can also cost much less to maintain than extensive masses of ornamental shrubs or other high maintenance material.
- ii) Does not prohibit shrubs. Shrubs can be used when and where they are part of the best design solution.
- iii) Consider the Right Plant, Right Place – does the palette fit the surroundings?

During the design process, the design plans will be reviewed by the Department to see if all guidelines are being followed.

The Project includes preparing all planting areas by removing sod, adding soil and adjusting grade for proper planting; purchasing all materials for the project and the installation of the landscaping improvements to the specifications shown in the accepted Landscape Plan; maintaining all aspects of the Project as in the Landscape Plan for the life of the project; staking all trees planted; and supplying Maintenance of Traffic in any roadway areas, if necessary.

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Original Draft: 2/12/2020
Revised:

The Project includes two segments with individual Financial Project numbers:

Segment **428238-2-58-01** includes completion of all services related to the purchase of the plant materials, fertilizer, soil amendments, mulches, staking, and the cost for labor associated with the installation of the planting. The expenditure of funds pursuant to this segment of the Project shall comply with the terms of Section 334.044(26), Florida Statutes, as amended. To the greatest extent practical, at least 50% of these funds shall be used to purchase large plant materials (large plant materials have been defined by the Florida Department of Transportation to be seven (7) gallon or larger containers as defined by the Florida Department of Agriculture's "Grades and Standards for Nursery Plants") with the remaining funds for other plant materials. Except as prohibited by applicable law or regulation, all of the plant materials purchased shall be purchased from Florida commercial nursery stock in this state on a uniform competitive bid basis.

Segment **428238-3-58-01** includes completion of all services related to clearing and grubbing, erosion control/sediment barrier/inlet protection and the purchase and installation of sod. Additional costs that may be reimbursed under this segment include mobilization, maintenance of traffic, and consultant construction engineering and inspections services.

SPECIAL CONSIDERATIONS BY LOCAL GOVERNMENT:

The LOCAL GOVERNMENT shall not advertise the Project for bids until the DEPARTMENT issues the Notice to Proceed. **Any work performed prior to the issuance of the Notice to Proceed is not subject to reimbursement.**

The LOCAL GOVERNMENT shall construct and complete the Project in accordance with the approved plans, the Special Provisions, and the DEPARTMENT'S Standard Specifications for Road and Bridge Construction, current edition. The LOCAL GOVERNMENT agrees to use current Standard Plans, FDOT Design Manual, and Standard Specifications corresponding to the letting date (bid opening). The latest landscaping Special Provision Specification 580 can be found at:

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2/19/2020

Original Draft: 2/12/2020
Revised:

[https://fdotewpl.dot.state.fl.us/SpecificationsPackage/Package/Workbook/LAPSpecificationS
election.aspx](https://fdotewpl.dot.state.fl.us/SpecificationsPackage/Package/Workbook/LAPSpecificationS
election.aspx)

All existing fiber and power within the project limits shall be shown and labeled as "FDOT Fiber and power" on the plans. The LOCAL GOVERNMENT shall use cflsmartroads.com to obtain a .kmz file showing all existing fiber and power within the District to utilize in plan development. The LOCAL GOVERNMENT shall provide sight triangles one half mile from all cameras to ensure clearance of the proposed landscaping. All plantings shall maintain ten (10) feet clear path, five (5) feet either side, of all microwave vehicle detection systems (MVDS) across the entire roadway, including the median.

Any and all other work to be performed within the DEPARTMENT'S Right of Way as a part of this Project shall be reflected on Design Plans for the Project. In no instance may improvements be installed or constructed within DEPARTMENT Right of Way unless and until Design Plans have been reviewed and accepted and a Notice to Proceed has been issued by the DEPARTMENT.

If the LOCAL GOVERNMENT will be doing any form of lane closure during the construction of this Project, a Lane Closure Analysis (LCA) shall be submitted by the LOCAL GOVERNMENT with the Design Plans for review by the DEPARTMENT.

The LOCAL GOVERNMENT agrees to bear all expenses in excess of the DEPARTMENT'S participation.

- The LOCAL GOVERNMENT will be responsible to prepare all planting areas by removing sod, adding soil amendments and adjusting grade for proper planting as specified in the plans when accepted by the DEPARTMENT.
- The LOCAL GOVERNMENT will purchase all trees, palms, and plants for the project and will install them to the specifications shown in the accepted Landscape Plans when accepted by the DEPARTMENT.

- The LOCAL GOVERNMENT will be responsible for fertilizing all trees, palms, and plants.
 - The LOCAL GOVERNMENT will purchase, supply, spread, and maintain organic mulch on all new plant beds.
 - The LOCAL GOVERNMENT will be responsible for staking of all trees planted.
 - The LOCAL GOVERNMENT will furnish water to all trees, palms, and plants for the described maintenance period called for in the Landscape Plan specifications.
 - The LOCAL GOVERNMENT will be responsible for the growth of all plants for the establishment period called for in the Landscape Plan specifications.
 - The LOCAL GOVERNMENT will establish proper Maintenance of Traffic, as needed.
 - All work on the Project shall be undertaken and completed in accord with the Terms & Conditions set forth in Exhibit "D".
 - The LOCAL GOVERNMENT is responsible for all maintenance requirements in perpetuity including but not limited to plant/tree replacement, fertilization, mulching, and any other requirements stated in section 3A above.
-

Exhibit "B"

METHOD OF COMPENSATION

Financial Management Numbers: 428238-2-58-01 & 428238-3-58-01

428238-2-58-01

For this segment of this Project, the DEPARTMENT agrees to reimburse the LOCAL GOVERNMENT in an amount up to but not to exceed **\$659,370.00 (Six Hundred Fifty Nine Thousand Three Hundred Seventy Dollars and No/100)** for actual costs incurred, excluding LOCAL GOVERNMENT overhead, for satisfactory completion of all services related to the purchase of the plant materials, fertilizer, soil amendments, mulches, staking, and the cost for labor associated with the installation of the planting detailed in Exhibit "A" (Scope of Services.)

428238-3-58-01

For this segment of this Project, the DEPARTMENT agrees to reimburse the LOCAL GOVERNMENT in an amount up to but not to exceed **\$98,906.00 (Ninety Eight Thousand Nine Hundred Six Dollars and No/100)** for actual costs incurred, excluding LOCAL GOVERNMENT overhead, for satisfactory completion of all services related to clearing and grubbing, erosion control/sediment barrier/inlet protection and the purchase and installation of sod. Additional costs that may be reimbursed include mobilization, maintenance of traffic, and consultant construction engineering and inspections services.

The LOCAL GOVERNMENT may receive progress payments for actual costs incurred for deliverables based on a percentage of services that have been completed, approved and accepted to the satisfaction of the DEPARTMENT when properly supported by detailed invoices and acceptable evidence of payment. Invoices submitted for reimbursement must clearly delineate reimbursable costs from other ineligible costs. The final balance due under this Agreement will be reimbursed upon the completion of all Project services, receipt of final construction cost documentation and proper submission of a detailed invoice and

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2/19/2020

Original Draft: 2/12/2020
Revised:

when the Project has been inspected, approved and accepted to the satisfaction of the
DEPARTMENT in writing.

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2/19/2020

Original Draft: 2/12/2020
Revised:

Exhibit "C"

ESTIMATED PROJECT PRODUCTION SCHEDULE

Financial Management Numbers: 428238-2-58-01 & 428238-3-58-01

Advertises for bids	March 12, 2020
Bids for Construction (bid opening)	April 14, 2020
Select Construction Firm (BCC approval)	May 5, 2020
Give NTP to Contractor	June 8, 2020
Earliest Construction Start	June 8, 2020
Latest Construction Finish	October 23, 2020
Construction Contract Closeout	December 22, 2020
Final Invoice and Closeout Documentation to the Department	April 30, 2021

Exhibit "D"

TERMS & CONDITIONS OF CONSTRUCTION

Financial Management Numbers: 428238-2-58-01 & 428238-3-58-01

1. The LOCAL GOVERNMENT is authorized, subject to the conditions set forth herein, to enter DEPARTMENT right-of-way to perform all activities necessary for the construction of the Project (as described more fully in Exhibit "A"). The Project shall be constructed in accordance with construction plans and specifications to be accepted by the DEPARTMENT and consistent with the requirements of the DEPARTMENT. The plans shall include an appropriate plan for maintenance of traffic. Should any significant (as defined by §4-3 of Standard Specifications for Road and Bridge Construction, current edition, and as amended from time to time) changes to the plans be required during construction of the Project, the LOCAL GOVERNMENT shall be required to notify the DEPARTMENT of the changes and receive approval from the DEPARTMENT prior to the changes being constructed. The DEPARTMENT reserves the right to adjust the plans to meet the requirements of permits. The LOCAL GOVERNMENT shall be responsible to maintain the area of the Project at all times during construction of the Project. All payment and performance bonds shall name the DEPARTMENT as an additional obligee. All warranties on any product or material used in construction of said Project shall be in favor of the DEPARTMENT. The LOCAL GOVERNMENT shall assure that the Engineer of Record performs all necessary post-design services that may be required.

2. The LOCAL GOVERNMENT shall have the affirmative responsibility to locate all existing utilities, both aerial and underground and that all utility locations shall be represented on the construction plans. All utility conflicts shall be fully resolved directly with the applicable utility. The LOCAL GOVERNMENT shall be obligated to design around any utility installation for which the conflict cannot be resolved. Said utility work shall be deemed to be undertaken on behalf of and for the benefit of the DEPARTMENT and the LOCAL GOVERNMENT shall assure that utility work schedules are obtained for the Project.

3. The work performed pursuant to this Agreement may require authorization under the Clean Water Act, by the U.S. Environmental Protection Agency for Storm Water Discharges from construction sites. The LOCAL GOVERNMENT is responsible for obtaining the National Pollutant Discharge Elimination System Permit and all other necessary permits for construction of the Project. When applicable, such permits will be processed in the name of the DEPARTMENT; however, in such event, the LOCAL GOVERNMENT will comply with all terms and conditions of such permit in construction of the subject facilities.

4. It is expressly agreed by the parties that this Agreement creates a permissive use only and that neither the granting of the permission herein to use DEPARTMENT and/or LOCAL GOVERNMENT right-of-way nor the placing of facilities upon DEPARTMENT and/or LOCAL GOVERNMENT land shall operate to create or vest any property right in the LOCAL GOVERNMENT except as otherwise provided in separate agreements.

5. The DEPARTMENT shall appoint and authorize a single individual to serve as the DEPARTMENT'S representative to coordinate and manage the DEPARTMENT review of LOCAL GOVERNMENT activities pursuant to this Agreement. The LOCAL GOVERNMENT shall provide a current construction schedule to the DEPARTMENT'S representative and shall notify the representative at least 48 hours in advance of starting proposed work and again immediately upon completion of work.

6. The LOCAL GOVERNMENT shall hire a DEPARTMENT Pre-qualified Landscape Contractor or the LOCAL GOVERNMENT may hire an experienced qualified contractor that has specific expertise and experience in the performance of **Roadway Landscape** projects. In order for the Contractor to utilize an experienced qualified contractor and to submit a bid relying on an experienced qualified contractor, the following requirements must be provided to the DEPARTMENT by the LOCAL GOVERNMENT:

(a) The Experience form (FDOT form number 850-070-09) must be filled out and submitted with the bid to the LOCAL GOVERNMENT. The form must be signed by the Owner or an Officer of the Company and dated and must reflect the following experience and credentials.

(1) At least five (5) complete years of experience in the performance of **Roadway Landscape** projects or the company Superintendent must have at least five (5) years of like experience as a Superintendent.

(2) The contractor must also provide independent written endorsements from two (2) separate Florida Registered Landscape Architects on company letterhead. These endorsements shall attest to the Florida Registered Landscape Architect's support of the contractor's skills, efficiency, and competence. Each Florida Registered Landscape Architect shall sign the endorsement, provide their license number, and include the following:

(i) Project name with a brief description that evaluates the landscape work performance.

(ii) Location of the project (city, state).

(iii) Professional substantiation of the contractor's skills, efficiency, and competence.

(3) FDOT Prequalification in **Landscaping** can be substituted for the required work experience.

7. The LOCAL GOVERNMENT shall hire a DEPARTMENT Pre-qualified Consultant Construction Engineering Inspection firm (CCEI) to perform construction oversight including the obligation to assure that any and all verification testing is performed in accordance with the Standard Specifications for Road and Bridge Construction, current edition, and as amended from time to time. The DEPARTMENT shall have the right, but not the obligation, to perform independent assurance testing during the course of

construction of the Project. The CCEI firm shall not be the same firm as that of the Engineer of Record for the Project.

8. The LOCAL GOVERNMENT shall require the LOCAL GOVERNMENT'S contractor to post a bond in accordance with Section 337.18, Florida Statutes.

9. The LOCAL GOVERNMENT shall not modify the intent of the design plans or the maintenance of traffic concept without appropriate submission by the Engineer of Record (the "Engineer") and approval by the DEPARTMENT. Provided, however, in the event of an emergency, the LOCAL GOVERNMENT shall immediately make any necessary changes and notify the DEPARTMENT and the Engineer of Record after the modifications.

10. The DEPARTMENT may request and shall be granted a conference with the LOCAL GOVERNMENT and at the LOCAL GOVERNMENT'S option, the LOCAL GOVERNMENT'S CEI firm, to discuss any part of the Project activities that the DEPARTMENT determines to be inconsistent with the accepted design plans and specifications. The LOCAL GOVERNMENT will monitor the corrective action and provide the DEPARTMENT status reports at such intervals as are reasonable, based on the corrective action undertaken, and the DEPARTMENT may, but is not obligated to, review independently the progress of the corrective action. Provided however, if the DEPARTMENT determines a condition exists which threatens the public's safety, the DEPARTMENT may, at its discretion, issue an immediate stop work order.

11. The LOCAL GOVERNMENT shall have the continuous obligation to monitor the maintenance of traffic and construction operation during the course of the Project so that the safe and efficient movement of the traveling public is maintained. The LOCAL GOVERNMENT is further obligated to make such changes to the maintenance of traffic plans as may be necessary. During construction, the LOCAL GOVERNMENT shall take measures, including the placing and display of safety devices that are necessary in order to safely conduct the public through the Project area in accordance with the latest and current version of the Federal Highway Administration Manual on Uniform Traffic Control Devices for Streets and Highways, and the DEPARTMENT'S Standard Specifications for Road and Bridge construction, current edition, and the current Standard Plans, FDOT Design Manual, and Standard Specifications corresponding to the letting date (bid opening). The LOCAL GOVERNMENT may assign the responsibility of this paragraph to the Contractor or it's CEI for the construction of the Project.

12. Prior to the Project bidding, the LOCAL GOVERNMENT shall provide a project schedule that includes, at a minimum, the date the Project will be advertised for bid, the bid opening date, the award date and the date of the preconstruction conference.

13. It is understood and agreed that the rights and privileges herein set out are granted only to the extent of the DEPARTMENT'S right, title and interest in the land to be entered upon and used by the LOCAL GOVERNMENT. Any additional right or privilege required to undertake and to complete construction of the Project shall be secured by the LOCAL GOVERNMENT.

14. Upon completion of the work in accord with the Plans, the LOCAL GOVERNMENT shall furnish a set of "as-built" plans prepared in accordance with the FDOT Construction Project Administration Manual, Chapter 5.12 (FDOT Procedure #700-

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2/19/2020

Original Draft: 2/12/2020
Revised:

000-00). The “as-built” plans shall be certified by the Engineer of Record/CEI that the necessary improvements have been completed in accordance with the Plans as the same may be modified in accord with the terms of this Agreement. This certification shall include a statement that necessary inspections, tests, and physical measurements have been made, and that all materials entering into the work conform to the Plans, conform to the applicable specifications contained in the Standard Specifications for Road and Bridge Construction, current edition, and as amended from time to time, or otherwise conform to or meet generally accepted professional practices. Additionally, the LOCAL GOVERNMENT shall assure that all post construction survey monumentation required by Florida Statutes is completed and evidence of such is provided to the DEPARTMENT in a manner acceptable to the DEPARTMENT. Upon acceptance of right-of-way documents, then the Project shall be deemed accepted by and turned over to the DEPARTMENT.

15. In the event contaminated soil is encountered by the LOCAL GOVERNMENT or anyone within the DEPARTMENT right of way, the LOCAL GOVERNMENT shall immediately cease work and notify the DEPARTMENT. The DEPARTMENT shall coordinate with the appropriate agencies and notify the LOCAL GOVERNMENT of any required action related thereto.

16. It is acknowledged by the parties that construction plans and specifications are still being prepared by the LOCAL GOVERNMENT as of the date of this Agreement. Construction of the Project will not commence until the DEPARTMENT has accepted the construction plans and specifications as provided for in Paragraph 1 and all required right-of-way has been properly obtained and certified (if applicable) as such by the DEPARTMENT’S Right of Way Manager.

17. If applicable, the LOCAL GOVERNMENT shall assure that load ratings are submitted on any vehicular bridge prior to the final submission of the structure plans for DEPARTMENT review. Structures shall not be opened to traffic until a signed and sealed final bridge load rating that meets the Florida legal loads standard is complete.

18. The Special Provisions, as it may be amended from time to time, shall apply to this Agreement and to all work on the Project. Special Provision Specification 580 can be found: <https://fdotewpl.dot.state.fl.us/SpecificationsPackage/Package/Workbook/LAPSpecificationSelection.aspx>

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2/19/2020

Original Draft: 2/12/2020
Revised:

Exhibit "E"

NOTICE OF COMPLETION

JOINT PARTICIPATION AGREEMENT

Between

**THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
and BREVARD COUNTY**

PROJECT DESCRIPTION: Landscaping Improvements on State Road 9 (Interstate 95) from South of Viera Boulevard Interchange to North of Viera Boulevard Interchange

FINANCIAL MANAGEMENT ID# 428238-2-58-01 & 428238-3-58-01

In accordance with the Terms and Conditions of the JOINT PARTICIPATION AGREEMENT, the undersigned hereby provides notification that the work authorized by this Agreement is complete as of _____, 20__.

By: _____

Name: _____

Title: _____

LANDSCAPE ARCHITECT'S CERTIFICATION OF SUBSTANTIAL COMPLIANCE

In accordance with the Terms and Conditions of the JOINT PARTICIPATION AGREEMENT, the undersigned hereby certifies that all work which originally required certification by a Registered Landscape Architect has been completed in substantial compliance with the Project construction plans and specifications. If any deviations have been made from the accepted plans, a list of all deviations along with an explanation that justifies the reason to accept each deviation will be attached to this Certification. Also, with submittal of this certification, the LOCAL GOVERNMENT shall furnish the DEPARTMENT a set of "as-built" plans certified by the Engineer of Record/CEI.

By: _____, P.E.

SEAL: Name: _____

Date: _____

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2/19/2020

Original Draft: 2/12/2020
Revised:

Exhibit "F"

RESOLUTION

Financial Management Numbers: 428238-2-58-01 & 428238-3-58-01

Resolution No. 2020-033

A Resolution authorizing the execution of Joint Participation Agreement with the State of Florida Department of Transportation and Brevard County for the Landscaping Improvements on State Road 9 (Interstate 95) from South of Viera Boulevard Interchange to North of Viera Boulevard Interchange

WHEREAS, the State of Florida Department of Transportation and Brevard County desire to facilitate the project: Landscaping Improvements on State Road 9 (Interstate 95) from South of Viera Boulevard Interchange to North of Viera Boulevard Interchange; and

WHEREAS, the State of Florida Department of Transportation has requested Brevard County to execute and deliver to the State of Florida Department of Transportation the Joint Participation Agreement for the aforementioned project, FM#428238-2-58-01 and 428238-3-58-01.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Brevard County, Florida, that Bryan Lober, Chair, of the Board of County Commissioners, is hereby authorized to make, execute, and deliver to the State of Florida Department of Transportation the Joint Participation Agreement for the aforementioned project, FM#428238-2-58-01 and 428238-3-58-01.

DONE AND RESOLVED in regular session this 21 day of APRIL, 2020.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA



Scott Ellis, Clerk



Bryan Lober, Chair

As approved by the Board on 4/21/2020

To: holly.lopenski@dot.state.fl.us

**FLORIDA DEPARTMENT OF TRANSPORTATION
FUNDS APPROVAL**

ASH64

4/24/2020

CONTRACT INFORMATION

Contract:	ASH64
Contract Type:	AK - PROJ PARTICIPATION (PROJ PART)
Method of Procurement:	G - GOVERNMENTAL AGENCY (287.057,F.S.)
Vendor Name:	BREVARD COUNTY BOCC
Vendor ID:	F596000523164
Beginning Date of This Agreement:	04/27/2020
Ending Date of This Agreement:	04/30/2021
Contract Total/Budgetary Ceiling:	ct = \$758,276.00
Description:	Landscaping Improvements on State Road 9/I-95 at Viera BlvdInterchange

FUNDS APPROVAL INFORMATION

FUNDS APPROVED/REVIEWED FOR ROBIN M. NAITOVE, CPA, COMPTROLLER ON 4/24/2020

Action:	Original	Original
Reviewed or Approved:	APPROVED	APPROVED
Organization Code:	55054010508	55054010508
Expansion Option:	A5	A5
Object Code:	563000	563000
Amount:	\$659,370.00	\$98,906.00
Financial Project:	42823825801	42823835801
Work Activity (FCT):	215	215
CFDA:		
Fiscal Year:	2020	2020
Budget Entity:	55150200	55150200
Category/Category Year:	088716/20	088716/20
Amendment ID:	O001	O001
Sequence:	00	01
User Assigned ID:		
Enc Line (6s)/Status:	0001/04	0002/04

Total Amount: \$758,276.00

Certificate Of Completion

Envelope Id: 5EE2F37B8A164635920788A2DDF4C923	Status: Completed
Subject: Please DocuSign: 428238-1-58-01 ASH64 Brevard Landscape.pdf	
Contract Number (ex. C9A12, optional): ASH64	
Document Contains Confidential Information?: No	
Fin Proj Num (ex.123456-1-32-01, Optional): 428238-2&3-58-01	
Office (contact Procurement if add is needed):	
Local Programs	
Source Envelope:	
Document Pages: 32	Signatures: 3
Certificate Pages: 2	Initials: 0
AutoNav: Enabled	Envelope Originator:
Envelopeld Stamping: Enabled	Holly Lopenski
Time Zone: (UTC-05:00) Eastern Time (US & Canada)	605 Suwannee Street
	MS 20
	Tallahassee, FL 32399-0450
	holly.lopenski@dot.state.fl.us
	IP Address: 156.75.180.190

Record Tracking

Status: Original	Holder: Holly Lopenski	Location: DocuSign
4/24/2020 1:59:20 PM	holly.lopenski@dot.state.fl.us	

Signer Events

Daniel McDermott
 Daniel.McDermott@dot.state.fl.us
 Senior Attorney
 FL DOT
 Signing Group: D5 General Law Legal Group
 Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

Loreen Bobo
 Loreen.Bobo@dot.state.fl.us
 District 5 Director of Transportation Development
 Florida Department of Transportation
 Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
 Not Offered via DocuSign


Norma Mejias
 norma.mejias@dot.state.fl.us
 FDOT
 Signing Group: D5 Executive Assistants
 Security Level: Email, Account Authentication (None)

Electronic Record and Signature Disclosure:
 Not Offered via DocuSign

Signature

DocuSigned by:
Daniel McDermott
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Signature Adoption: Drawn on Device
 Using IP Address: 156.75.252.6

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Timestamp

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Sent: 4/28/2020 7:21:22 AM
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 Signed: 4/28/2020 12:58:55 PM

Sent: 4/28/2020 12:58:57 PM
 Viewed: 4/28/2020 1:00:55 PM
 Signed: 4/28/2020 1:01:23 PM

In Person Signer Events

Signature

Timestamp

Editor Delivery Events

Status

Timestamp

Agent Delivery Events

Status

Timestamp

Intermediary Delivery Events	Status	Timestamp
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Certified Delivery Events	Status	Timestamp
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Carbon Copy Events	Status	Timestamp
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Linda Lee Linda.Lee@dot.state.fl.us FDOT Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: 4/24/2020 2:15:16 PM
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Lisa Buscher lisa.buscher@dot.state.fl.us Holly Lopenski holly.lopenski@dot.state.fl.us Allison Godwin allison.godwin@dot.state.fl.us Teresa Hutson Teresa.Hutson@dot.state.fl.us Precious Johnson Precious.Johnson@dot.state.fl.us Signing Group: D5 Local Government Agreements Security Level: Email, Account Authentication (None) Electronic Record and Signature Disclosure: Not Offered via DocuSign	COPIED	Sent: 4/28/2020 1:01:26 PM
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Witness Events	Signature	Timestamp
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Notary Events	Signature	Timestamp
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Envelope Summary Events	Status	Timestamps
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Envelope Sent	Hashed/Encrypted	4/28/2020 1:01:26 PM
Certified Delivered	Security Checked	4/28/2020 1:01:26 PM
Signing Complete	Security Checked	4/28/2020 1:01:26 PM
Completed	Security Checked	4/28/2020 1:01:26 PM

Payment Events	Status	Timestamps
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BREVARD COUNTY BOARD OF COUNTY
COMMISSIONERS

PUBLIC WORKS DEPARTMENT

SPECIFICATIONS

AND

CONTRACT DOCUMENTS

VIERA BOULEVARD AND INTERSTATE 95
LANDSCAPE PROJECT

Financial Project No. 428238-2-58-01

The engineering material and data contained in the Contract Documents for the Viera Boulevard and Interstate 95 Landscape Project were prepared under the responsible charge of the undersigned, whose seal as registered landscape architect is affixed below:



Susan
J Hall

Digitally signed
by Susan J Hall
Date:
2020.07.22
08:25:52 -04'00'

Susan Hall, ASLA
Florida License #853 (Landscape Architect)
4425 Crooked Mile Road
Merritt Island, FL 32952

BIDDER CHECKLIST
BID # B-2-20-46

The items listed below are required for submission with the Bid. Failure to submit any items listed below may result in rejection of the Bid. Offers to provide required items after the date and time designated for the receipt of Bids will not be considered.

1 Original and 4 Copies and Electronic Copy (PDF) on CD or USB Flash Drive of the Bid, including the Bid Form in Excel format (paper and electronic copy)

Addenda Acknowledgment

Bid Bond (Five Percent of Bid) on Form included in the Specifications and Contract Documents

The Contractor shall be State of Florida Department of Transportation (F.D.O.T.) pre-qualified in Landscaping. Provide current copy of F.D.O.T. certification stating classes of work and aggregate amount of work

Certification of Work Underway Information F.D.O.T. Form 375-020-39

A list of all subcontractors to be used on the project and the value of their work

Copies of all licenses held by the Contractor and any subcontractors required to perform work as provided by law

Copies of Certificates for Competent Person and Temporary Traffic Control Advanced Certification for the Worksite Traffic Supervisor

Non-Collusion Affidavit

Public Entity Crime Affidavit

Vendor Affidavit Regarding Scrutinized Company List

Drug-Free Workplace Certification

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**SECTION 1
ADVERTISEMENT FOR BIDS**

Separate sealed Bids will be received by Brevard County, Florida, until 2:00 p.m. on May 27, 2020, in Purchasing Services, Government Center, 2725 Judge Fran Jamieson Way, Building C, Third Floor, Suite 303, Viera, FL 32940, as follows:

Viera Boulevard and Interstate 95 Landscape Project

The proposed project is located at the Viera Boulevard and Interstate 95 Interchange in the community of Viera, Brevard County. The project includes landscaping, specifically installation of small and large plants in several locations within the new Interchange and the Establishment Period. Other work activities include mobilization, maintenance of traffic, and clearing and grubbing.

Major classes of work include: Landscaping

Acceptance of material and work shall be made only after applicable Quality Control sampling and testing set forth in the Florida Department of Transportation (F.D.O.T.) Standard Specifications have been satisfied. The contractor shall provide for all required Quality Control sampling and testing. The Owner shall provide for all required Verification sampling and testing set forth in the F.D.O.T. Standard Specifications.

All persons employed by the Contractor or subcontractors working within the F.D.O.T. right-of-way shall have Tier 1 Illicit Discharge Detection and Elimination (I.D.D.E.) training. The computer-based training is provided by video on the following web page:
<http://wbt.dot.state.fl.us/ois/IllicitDischarge/index.htm>

A list of trained personnel shall be provided to the Owner prior to issuance of the Notice to Proceed and updated throughout contract duration.

Contract Documents are on file and available at Purchasing Services, Government Center, 2725 Judge Fran Jamieson Way, Building C, Third Floor, Suite 303, Viera, FL 32940, (321) 617-7390. Contract Documents are available on myvendorlink.com and demandstar.com

Bids shall be delivered in person or forwarded by special delivery registered mail. If forwarded, by mail, it shall be placed in a sealed Bid envelope enclosed in another separate envelope addressed to Purchasing Services, Government Center, 2725 Judge Fran Jamieson Way, Building C, Third Floor, Suite 303, Viera, FL 32940.

All Bids must be marked on the outside of the sealed bid envelope (for each project) as follows:

Sealed Bid

Bid No.: B-2-20-46

For: Viera Boulevard and Interstate 95 Landscape Project

Opening Date: May 27, 2020 at 2:00 PM

Opening Time: 2:00 P.M.

Bidder's Name and Address:

The official time clock will be the date and time stamp clock located in Purchasing Services. Note* Please ensure that if you use a third-party carrier (Federal Express, United Parcel Service, United States Postal Service, etc.) that they are properly instructed to deliver your bid only to Purchasing Services on the third floor at the above address. Bidders are advised that U.S. Postal Service 1st Class and Express mail is delivered to a P.O. Box and is not delivered to the Purchasing Services. Delivery via third party carrier is at the Bidder's risk. To be considered, a bid must be accepted in Purchasing Services no later than the Invitation to Bid closing date and time. If the bid is delivered anywhere else, it may not reach Purchasing Services in time. Bids must be presented on the County proposal forms provided in Section 3 of the Specification and Contract Documents for the project. One original and four copies of all materials must be submitted with the bid package including the following:

Addenda Acknowledgment

A Bid Bond of five percent of the Bid - Bidder must utilize the form provided in Section 4 of these Specifications and Contract Documents. Failure to use the form provided shall result in disqualification.

The contractor shall be State of Florida Department of Transportation (F.D.O.T.) pre-qualified in **Landscaping**. Provide current copy of F.D.O.T. certification stating classes of work and aggregate amount of work with the Bid in order to be considered. F.D.O.T. pre-qualification must not be subject to suspension at the time Bids are opened. Include the Certification of Work Underway F.D.O.T. Form 375-020-39.

A list of all subcontractors to be utilized on the project, indicating the type and contract value of their work. All subcontractors are subject to approval by the Owner.

Names and copies of certificates for the contractor's personnel who have completed training and are certified as a Competent Person and a Temporary Traffic Control (T.T.C.) Advanced Certification for the Worksite Traffic Supervisor, as defined in Section 7, Article 11.3 of the Specification and Contract Documents. These certificates must be included in the Bid.

The Contractor or subcontractor performing the work on the utility portion of the project must be a licensed underground utility contractor.

Non-Collusion Affidavit

Public Entity Crime Affidavit

Vendor Affidavit Regarding Scrutinized Company List

Drug-Free Workplace Certification

The Bid must be for the project in its entirety. The successful Contractor shall be

required to provide the following:

For projects that are \$100,000 or more, a Public Construction Bond (Payment and Performance) in the amount of 100% of the contract price shall be executed prior to the Notice to Proceed date and shall remain in effect until Final Acceptance, including the Establishment Period. Said bond must be submitted on the form included in the Contract Documents; no other forms will be accepted. Upon execution of the contract, the contractor will be required to record the bond per Chapter 255 of the Florida Statutes (see Section 5, Article 13 of the Specifications and Contract Documents). Projects less than \$100,000 shall not require a Public Construction Performance Bond or a Public Construction Payment Bond, but shall be subject to the provisions in Section 2, Article 19 and Section 7, Article 27, of the Specifications and Contract Documents.

Certificates of Insurance as required in Section 5, Article 6, of the Specifications and Contract Documents.

For Bids in excess of \$50,000, within five business days from Notice of Apparent Lowest Bidder, certain information shall be submitted to the Owner for the purpose of pre-qualification under County guidelines. A summary of this information is available for review in Section 3 of the Specifications and Contract Documents.

Copies of all licenses held by the Contractor and any subcontractors required to perform work as provided by law.

A person or affiliate who has been placed on the convicted vendor list following a conviction of a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity.

The Owner will obtain all permits needed for the project and provide all permit fee costs with the exception of: (1) any consumptive use permits that may be needed as determined by the St. John's River Water Management District, (2) a National Pollutant Discharge Elimination System (N.P.D.E.S.) Construction Permit as determined by the Environmental Protection Agency, and (3) any permits needed for use of explosives. Determining whether these permits listed as exceptions 1, 2, and 3 above are required,

obtaining and payment of the permits if so determined, is solely the responsibility of the contractor.

All bidders are hereby placed on notice that the County Commission and staff (with the exception of the Purchasing Liaison) shall not be contacted about this Invitation to Bid. Public meetings are the only acceptable forums for the discussion of merits of products/services requested by the Invitation for Bid. Written correspondence may be submitted to Purchasing Services. The Purchasing Liaison for this project is Summer Wyllie, Purchasing Services, Government Center, 2725 Judge Fran Jamieson Way, Building C, Third Floor, Suite 303, Viera, FL 32940, phone (321) 617-7390, Fax (321) 617-7391; e-mail: summer.wyllie@brevardfl.gov. Failure to adhere to these requirements could result in Board action to disqualify your firm from consideration of award.

The last day for bidding questions will be on May 15, 2020 by 5:00 P.M.

Bids may be held by the Owner for a period not to exceed ninety days from the date of the opening of Bids for the purpose of reviewing the Bids and investigating the qualifications of Bidders prior to awarding the contract and having the contractor accept the contract and execute all necessary documents. The Owner reserves the right to reject any or all Bids and to waive any informalities in the bidding.

The Owner reserves the right to rebid the contract or contract modifications where the work has not been previously initiated where the modification increases the original scope of work and where the rebid process will not impact existing work by the awarded contractor.

By Order of the Board of County Commissioners
Brevard County, Florida

Bryan Lober, Chair

By: Tammy Thomas-Wood, Public Works Support Services Manager

SECTION 2 BID INSTRUCTIONS

1. DEFINITIONS

Whenever in the Contract Documents, the following terms (or pronouns in place of them) are used, the intent and meaning of such terms shall be interpreted as follows:

- 1.1 **Addendum or Addenda:** A written explanation, interpretation, modification, correction, addition, deletion, or modification, affecting the Contract Documents, including Drawings and Specifications issued by the Owner and distributed to prospective bidders prior to the bid opening.
- 1.2 **Affidavit:** The instrument which is to be signed by the Contractor and submitted to the Owner, upon completion of that job, showing that all bills have been paid. It shall also mean such instrument that may be requested by the Owner incident to partial payments.
- 1.3 **Article:** The prime subdivision of a section of these or any other referenced Specifications, Bid Instructions, Special Conditions, Supplemental Specifications, and General Conditions.
- 1.4 **Bid:** The written offer submitted by the Bidder for the work pursuant to the Drawings, Plans, and Contract Documents on the prescribed Bid forms, properly signed and guaranteed by the Bidder.
- 1.5 **Bidder:** An individual, firm or corporation submitting a Bid for the work contemplated, acting directly or through a duly authorized representative.
- 1.6 **Bid Security or Bid Bond:** The security designated in the Bid to be furnished by the Bidder as guarantee that the Bidder will enter into the Contract for the work if the Bidder's proposal is accepted.
- 1.7 **Calendar Day:** Any day, including Saturdays, Sundays and holidays, and regardless of the weather conditions.
- 1.8 **Change Order:** A written change to the Contract Documents approved by the Owner added to or deleted from the Contract value or scope of work for the project. A Change Order is a signed amendment to the Contract Documents for any of the following:
 1. A change in the Scope of Work;
 2. The amount of the adjustment in the contract sum, if any; and
 3. The extension or the adjustment in the contract time, if any.
- 1.9 **Commission:** The Board of County Commissioners of Brevard County, Florida.

- 1.10 Construction Engineering Inspector: An authorized representative and their agents, or employee of the Owner assigned to the project to make observations of the work performed by the Contractor.
- 1.11 Contract Documents: The Contract Documents, sometimes referred to as the "Drawings and Specifications" and/or "Contract", shall mean and include by incorporation of reference all of the following:
- (a) Advertisement for Bids;
 - (b) Bid Instructions;
 - (c) Bid;
 - (d) Bid Bond;
 - (e) Contract;
 - (f) Public Construction Bond;
 - (g) General Conditions;
 - (h) Special Conditions;
 - (i) Supplemental Specifications;
 - (j) Addenda;
 - (k) Drawings;
 - (l) Certificate of Insurance; and
 - (m) Change Orders
- 1.12 Contract Time: The time period in calendar days between the Project Initiation Date(s) specified in a Notice(s) to Proceed and Final Completion of the Work which may be amended by a Change Order.
- 1.13 Contractor: The firm whose Bid is accepted by the Owner and who has entered into a formal contract with the Owner to furnish the work. The Contractor has the obligation to deliver to the Owner the completed Project in compliance with the Contract Documents and in good and workmanlike condition.
- 1.14 Contractor's Engineer: A Professional Engineer registered in the State of Florida, other than the Engineer of Record or his subcontracted consultant, who undertakes the design and drawing of components of the permanent structure as part of a redesign or Value Engineering Change Proposal (V.E.C.P.), or for repair designs and details of the permanent work. The Contractor's Engineer may also serve as the Specialty Engineer. Any Corporation or Partnership offering engineering services must hold a Certificate of Authorization from the Florida Department of Business and Professional regulation. Specialty Engineers will not be authorized to perform redesigns or V.E.C.P. designs of items fully detailed in the plans.
- 1.15 Drawings: The official approved drawings or plans, or exact reproductions thereof, which show the location, character, dimensions and

details of the work to be done, which are incorporated by reference as part of the Contract Documents.

- 1.16 Engineer of Record: Susan Hall, ASLA, Landscape Architect, 4425 Crooked Mile Road, Merritt Island, FL 32952. The engineer(s) under whose responsible charge the Contract Drawings, Plans, and Specifications were prepared.
- 1.17 Equipment: The machinery and equipment, together with the necessary supplies for upkeep and maintenance, and including the tools and apparatus necessary for the proper construction and acceptable completion of the work.
- 1.18 Establishment Period: Work activities performed in compliance with the Contract Documents related to the maintenance of the Landscape Installation following Final Completion (Landscape Installation) and shall be a period of two years, ceasing upon Final Completion (Establishment Period).
- 1.19 Final Completion (Landscape Installation): The date noticed by the Owner, in its sole discretion, upon which all of the following activities have occurred: conditions and requirements of any and all permits and regulatory agencies have been satisfied; As-Built Survey Drawings delivered to and accepted by the Owner; and the Work, excluding the Establishment Period, defined herein has been fully completed in compliance with the terms and conditions of the Contract Documents.
- 1.20 Final Completion (Establishment Period): The date by the Owner, in its sole discretion, upon which all of the following activities have occurred: conditions and requirements of any and all permits and regulatory agencies have been satisfied, and the Work, excluding the Landscape Installation, defined herein has been fully completed in compliance with the terms and conditions of the Contract Documents.
- 1.21 Final Acceptance: The date of final payment made by the Owner, in its sole discretion, upon which all conditions and requirements of the Contract Documents by the Contractor have been satisfied.
- 1.22 Force Account Work: Work performed in addition to that set forth in the original contract or contract modifications, and which is paid for on the basis of actual cost of materials and labor, plus a fixed percentage of such costs.
- 1.23 Landscape Installation: Work activities performed in compliance with the Contract Documents related to the installation of small and large plants in several locations, including but not limited to mobilization, maintenance of

traffic, and clearing and grubbing.

- 1.24 **Materials:** Any substance proposed to be used in conjunction with the construction of any structure, facility or appurtenance, or of other work under the contract.
- 1.25 **Notices:**
- (a) **Notice of Award:** The official letter from the Owner advising the successful Bidder that the Bidder has been awarded the Contract.
 - (b) **Notice to Proceed:** The official letter from the Owner to the Contractor instructing the Contractor to commence work within ten calendar days after date of notice.
 - (c) **Notice of Substantial Completion:** The official notice from the Owner to the Contractor of the date the Landscape Installation work has been accepted as substantially complete.
 - (d) **Notice of Final Completion (Landscape Installation):** The official notice from the Owner to the Contractor of the date the Landscape Installation work has been accepted as complete.
- 1.26 **Owner:** Brevard County, Florida, Board of County Commissioners, and their designee.
- 1.27 **Person:** The word "person" shall mean and include any individual, partnership, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee, or capacity, whether appointed by a court or otherwise, and any combination of individuals or "persons".
- 1.28 **Plans:** See Definition of Drawings.
- 1.29 **Principal:** When used in the Bid Bond, the word "Principal" means the same as the word "Bidder". When used in the Public Construction Bond, the word "Principal" means the same as the word "Contractor".
- 1.30 **Pronouns:** The masculine pronoun shall include the feminine and neuter and the singular shall include the plural.
- 1.31 **Provided:** As used in the Specifications or upon the Drawings, "provided" shall be understood to mean "provided complete in place", that is, "furnished and installed". Where "as shown", "as indicated", "as detailed", or words of similar import are used, it shall be understood that references to the Drawings and/or Specifications accompanying these documents are intended unless otherwise expressly stated.

- 1.32 Public Construction Bond (Payment and Performance): The securities furnished by the Contractor and the Surety as a guaranty that the Contractor will fulfill the terms of the Contract in accordance with the Drawings, Specifications and other Contract Documents. Said bond shall be recorded by the Contractor upon execution of the contract by both parties. All references to Payment and Performance Bonds shall also mean the Public Construction Bond.
- 1.33 Scope of the Work: Includes the Work, as the term is herein defined, as well as the responsibility for performing and complying with all incidental matters pertaining thereto, as set out in the Contract Documents.
- 1.34 Specifications: The Bid Instructions, General Conditions, Special Conditions, Supplemental Specifications and such other documents as set forth in the Contract Documents.
- 1.35 Standard Specifications: Florida Department of Transportation - "Standard Specifications for Road and Bridge Construction", January 2020 Edition, except when superseded as otherwise noted.
- 1.36 State: State of Florida.
- 1.37 Subcontractor: A firm supplying labor, materials, supplies, equipment, services, and other incidentals used directly or indirectly by the Contractor or Subcontractors. Such person has contractual relations with the Contractor, but not with the Owner.
- 1.38 Substantial Completion: The date, as noticed by the Owner, on which the Work, or a portion thereof (Landscape Installation), is at a level of completion in substantial compliance with the Contract Documents such that all conditions of permits and regulatory agencies have been satisfied, and the Owner can occupy and/or use it in all respects for its intended purpose.
- 1.39 Superintendent: The Contractor's authorized executive representative, in responsible charge of the work at all times.
- 1.40 Surety: The corporate body which is bound by the Public Construction Bond (Payment and Performance) with and for the Contractor (who is primarily liable) and which engages to be responsible for the Contractor's acceptable performance of the work for which the contract has been made and for the Contractor's prompt payment of all debts pertaining thereto.
- 1.41 Work: All work activities implied or expressly required to be furnished and/or completed by the Contractor to be in full compliance with the Contract Documents. Work activities in the Contract shall consist of two major elements: Landscape Installation and Establishment Period as

defined herein.

- 1.42 Work Order: Written authorization to the Contractor signed by the Owner, concerning performance of work and/or furnishing of materials on a force account basis as provided in the General Conditions.

2. OBLIGATION OF BIDDER TO INFORM HIMSELF AS TO ALL CONDITIONS RELATING TO PROJECT

- 2.1 It is the responsibility of each Bidder, prior to submitting a Bid to: (1) examine thoroughly the Contract Documents and other related data identified in the Bidding Documents, including "technical data" referred to below; (2) visit the site to become familiar with and satisfied with the general, local and site conditions that may affect cost, progress, performance or furnishing of the work; (3) consider federal, state and local laws and regulations that may affect cost, progress, performance or furnishing of the work; (4) study and carefully correlate the Bidder's knowledge and observations with the Contract Documents and such other related data; 5) promptly notify the Owner of all conflicts, errors, ambiguities or discrepancies which the Bidder has discovered in or between the Contract Documents and such other related documents; and (6) be responsible for obtaining such additional supplementary examinations, investigations, explorations, tests, studies and data concerning conditions (surface, subsurface, and underground utilities or facilities) at or contiguous to the site or otherwise, which may affect cost, progress, performance or furnishing of the work, or which relate to any aspect of the means, methods, techniques, sequences or procedures of construction to be employed by the Bidder and safety precautions and programs incident thereto or which Bidder deems necessary to determine its bid for performing and furnishing the work in accordance with the time, price and other terms and conditions of the Contract Documents.
- 2.2 The Bidder may rely upon the general accuracy of the "technical data" contained in the reports of explorations and tests of subsurface conditions at or contiguous to the site, which have been utilized by the Engineer of Record in preparation of the Contract Documents. However, the Bidder shall not rely upon other data, interpretations, opinions or information contained in such reports or otherwise relating to the subsurface conditions at the site, nor upon the completeness thereof for the purposes of bidding or construction.
- 2.3 The Bidder may rely upon the general accuracy of the "technical data" contained in those drawings of physical conditions that may or may not be available relating to existing surface and subsurface structures (except underground facilities) which are at or contiguous to the site that have been utilized by the Engineer of Record in preparation of the Contract

Documents, but not upon other data, interpretations, opinions or information shown or indicated in such drawings or otherwise relating to such structures, nor upon the completeness thereof for the purposes of bidding or construction.

- 2.4 Information and data shown or indicated in the Contract Documents with respect to existing underground facilities at or contiguous to the site is based upon information furnished to the Owner and the Engineer of Record by owners of such underground facilities or others, and the Owner and the Engineer of Record do not assume responsibility for the accuracy or completeness thereof unless it is expressly provided otherwise in these documents.
- 2.5 Upon the Bidder's request, the Owner will provide each Bidder access to the site to conduct such examinations, investigations, explorations, tests and studies, including utility locations, as each Bidder deems necessary for submission of a bid. The Bidder must fill all holes and clean up and restore the site to its former existing conditions upon completion of such explorations, investigations, tests and studies.
- 2.6 The submission of a Bid will constitute an incontrovertible representation by the Bidder that the Bidder has complied with every requirement of this Article 2, that, without exception, the Bid is premised upon performing and furnishing the work required by the Contract Documents, and applying the specific means, methods, techniques, sequences or procedures of construction (if any) that may be shown or indicated or expressly required by the Contract Documents, that the Bidder has given the Owner written notice of all conflicts, errors, ambiguities and discrepancies that the Bidder has discovered in the Contract Documents and the written resolutions thereof by the Engineer of Record are acceptable to the Bidder, and that the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing an furnishing the work.
- 2.7 A person or affiliate who has been placed on the convicted vendor list following a conviction of a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

3. EXAMINATION OF CONTRACT DOCUMENTS

3.1 The Bidder shall carefully examine the Drawings and Specifications and other Contract Documents, and become thoroughly informed about any and all conditions and requirements, including the construction schedule, that may in any manner affect the work to be performed under the Contract. Ignorance on the part of the Contractor will in no way relieve the Contractor of the obligations and responsibilities assumed under the Contract.

4. DISCREPANCIES

4.1 Should a Bidder find any type of potential discrepancies, ambiguities, errors, omissions from the Drawings, Specifications, any Contract Document, or should the Bidder be in doubt as to their meaning, the Bidder shall at once notify the Owner in writing.

5. ADDENDA, MODIFICATIONS OR INTERPRETATIONS DURING BIDDING

5.1 No oral interpretations will be made to any Bidder as to the meaning of the Contract Documents. Any written inquiry or request by the Bidder for interpretation received seven or more days prior to the date fixed for opening of the Bids will be given consideration. All such Modifications or interpretations will be made in writing in the form of an addendum and, if issued, will be issued on myvendorlink.com and demandstar.com not later than five days prior to the established Bid opening date. Each prospective Bidder shall acknowledge receipt of such addenda in the Addenda Acknowledgment form. In case any Bidder fails to acknowledge receipt of such addenda or addendum, the Bid will nevertheless be construed as though it had been received and acknowledged, and the submission of the Bid will constitute acknowledgment of the receipt of same. All addenda and responses thereto are deemed a part of the Contract Documents and each Bidder will be bound by such addenda, whether or not received by the Bidder. It is the responsibility of each prospective Bidder to verify that the Bidder has received all addenda issued before bids are opened. Prior to execution of the Contract, the Bidder shall provide written documentation that the Bid submitted encompasses all previously submitted addenda issued by number.

6. FAMILIARITY WITH LAWS

6.1 The Bidder is required to be familiar with and should be responsible for complying with all federal, state and local laws, ordinances, rules and regulations that in any manner affect the work.

7. PREPARATION AND SUBMISSION OF BIDS

- 7.1 Pre-qualification of Bidders: For projects in excess of \$50,000, the successful Bidder shall be subject to a pre-qualification process to be undertaken by the Owner in accordance with Brevard County Policy-28. Additionally, contractors who perform the work, must be pre-qualified by the Florida Department of Transportation in **Landscaping**. The contractor shall provide current copy of certification stating classes of work. A list of subcontractors shall be attached to the Bid to include the type and value of work.
- 7.2 Signature of the Bidder: The Bidder must sign the Bid form in the space provided for the signature. If the Bidder is an individual, the words "doing business as _____", or "Sole Owner" must appear beneath such signature. In the case of a partnership, the signature of at least one of the partners must follow the firm name and the words "Member of the Firm" should be written beneath such signature. If the Bidder is a corporation, the title of the officer signing the Bid on behalf of the corporation must be stated and evidence of authority to sign the Bid must be submitted. The Bidder shall state in the Bid the name and address of each person interested therein.
- 7.3 Basis for Bidding: The price bid for each item shall be on a lump sum or unit price basis according to the Bid form. The bid prices shall remain unchanged for the duration of the Contract and no claims for cost escalation during the progress of the work will be considered.
- 7.4 Price Bid: The total price bid for the work shall be the sum of the lump sum prices bid and/or unit prices multiplied by the appropriate estimated quantities for the individual items and shall be stated in figures in the appropriate place on the Bid form. Lump Sum and/or unit prices bid for each item will be expressed in both words and figures, and in the case of discrepancy between the two, the amount in words shall govern. In the event that there is a discrepancy on the Bid form due to unit price extension or additions, the corrected extensions and additions shall be used to determine the project bid amount.
- 7.5 Submission of Bids:
- (a) Each Bid must be submitted on the Bid forms as furnished, together with a suitable Bid security, herein described. The Bid must be submitted as an original plus four copies and an Electronic Copy PDF on CD or USB Flash Drive.
 - (b) The above Bid and Bid security must be submitted in a sealed envelope which shall be marked so as to clearly indicate its

contents and the name of the Bidder. If forwarded by mail, the above-mentioned envelope shall be enclosed in another envelope addressed to Purchasing Services, Government Center, 2725 Judge Fran Jamieson Way, Building C, Third Floor, Suite 303, Viera, FL 32940, by special delivery, registered mail. Bids will be received until the date and hour stated in the Advertisement for Bids.

- (c) The Bidder must submit with the Bid an accompanying letter in which the Bidder shall list the names and addresses of the Bidder's subcontractors together with the services they will supply and the value of their work. These subcontractors will be subject to review as to their competency by the Owner prior to award of Contract and shall be one of the considerations in determining the lowest responsible and responsive Bidder as defined hereinafter. After award of Contract, no change in subcontractors shall be made unless approved by the Owner after a request for such a change has been submitted in writing by the Contractor which shall include the reasons for such request.
- (d) The Bidder must also submit a current copy of the Florida Department of Transportation (F.D.O.T.) Pre-qualification Certificate stating the areas/classes for which the contractor has been qualified to perform, to coincide with those classes of work needed for the project which is **Landscaping**.
- (e) The Bidder must also submit names and copies of certificates as needed, for personnel who have completed training and are certified as a Competent Person, Confined Space Entry Supervisor and a Temporary Traffic Control (T.T.C.) Advanced Certification for the Worksite Traffic Supervisor at all times during construction, as defined in Section 7, Article 11.3 of the Specifications and Contract Documents.
- (f) The Contractor or subcontractor performing the utility work on this project must be a licensed underground utility contractor.

8. DISQUALIFICATION OF BIDDERS

- 8.1 One Bid: Only one Bid from an individual firm, partnership or corporation under the same or under different names will be considered. If it is believed that a Bidder is interested in more than one proposal for the work involved, all Bids in which such a Bidder is interested will be rejected.
- 8.2 Collusion among Bidders: If there is evidence that collusion exists among the Bidders, the Bids of all participants in such collusion will be rejected,

and no participants in such collusion will be considered in future bids for the same work.

9. BID SECURITY

- 9.1 Each Bid must be accompanied by a cashier's check or Bid Bond utilizing the form provided in the Contract Documents, in an amount not less than five percent of the amount of the Bid. Do not modify or re-issue this form. Use the form provided in the Contract Documents only. Failure to use the form provided in the Contract Documents will result in disqualification of the Bidder. A cashier's check shall have the necessary State of Florida's Documentary Stamps attached. The Bid security of all Bidders will be returned within ten days after the Owner and the accepted Bidder have executed the written Contract and the accepted Bidder has filed acceptable Public Construction Bond (Payment and Performance) and an acceptable Certificate of Insurance. If one-hundred eighty days have passed after the date of the formal opening of the Bids and no Contract has been awarded, the Bid security of any Bidder will be returned on demand, provided that the Bidder has not been notified of the acceptance of the Bid.

10. POWER OF ATTORNEY

- 10.1 Attorneys-in-Fact who sign Bid Bonds or Public Construction Bonds, must file with such bonds a certified copy of their Power of Attorney to sign said Bonds.

11. BID SECURITY FORFEITED - LIQUIDATED DAMAGES

- 11.1 Failure to execute a Contract and provide acceptable documents as provided herein within ten days after a written Notice of Award has been given shall be just cause for the annulment of the award and the forfeiture of the Bid Security to the Owner, which forfeiture shall be considered not as a penalty, but in liquidation of damages sustained. Award will then be made to the next lowest responsible and responsive Bidder, or all Bids may be rejected, or the Owner may take such other action as it deems appropriate.

12. WITHDRAWAL OF BID

- 12.1 Bids may be withdrawn prior to the time scheduled in the Advertisement for Bids for the Bid opening. A Bid may also be withdrawn within ninety days after the date of the Bid opening, provided the Bidder has not been notified that the Bid was accepted.

13. MODIFICATION OF BIDS

- 13.1 Written Bid modification will be accepted from Bidders if addressed to Purchasing Services, Government Center, 2725 Judge Fran Jamieson Way, Building C, Third Floor, Suite 303, Viera, FL 32940, and received prior to opening of formal Bids.

14. OPENING OF BIDS

- 14.1 In accordance with Florida Statute 119.071(1)(b) 2, the names of the firms submitting a Bid will be read aloud at the time of the bid opening. No details of the competitive solicitation will be released. The officer whose duty it is to open them will decide when the specified time has arrived and no Bids received thereafter will be considered. No responsibility will be attached to any officer for the premature opening of a Bid not properly addressed and identified. Attendance by Bidders or their authorized agent is highly encouraged.

15. CONSIDERATION OF BIDS

- 15.1 For the purpose of award, after the Bids are opened and read, the correct summation of the lump sum prices and/or of the products of the estimated quantities shown in the Bid and the unit prices will be considered the Bid. The amounts then will be compared and the results of such comparison made available to the public. Until the final award of the Contract, the right will be reserved to reject any and all Bids and to waive technical errors and irregularities as may be deemed best for the interest of the Owner.
- 15.2 Tie Bids: Award of all tie quotes/bids shall be made by the Purchasing Manager in accordance with State Statutes, which allows a firm certified as a Drug-Free Workplace to have precedence. When evaluation of vendor responses to solicitations results in identical offers, with regards to Bids from two or more Bidders, the Owner shall determine the order of award using the following criteria in order of preference listed below (from highest priority to lowest priority);
- (a) For tie Bids, priority shall be given to the Bidder certifying that he/she is a Drug-Free Workplace as defined within §287.087, Florida Statutes;
 - (b) In the event that a tie still exists after progressing through a, the decision shall be made by lot or coin toss. The drawing of lots or coin toss shall be conducted in the presence of the effected Bidders if they elect to be present.

16. RIGHT TO ACCEPT OR REJECT BIDS

16.1 Bids which contain modifications, are incomplete, unbalanced, conditional, obscure, or which contain additions not requested or irregularities of any kind, or which do not comply in every respect with the Instructions to Bidders and the Contract Documents, may be rejected at the option of the Owner.

17. AWARD OF CONTRACT

17.1 The Owner reserves the right to reject any or all Bids, or any part of any Bid, to waive any informality in any Bid, or to re-advertise for all or part of the work contemplated. The Owner reserves the right, prior to award of Contract, to delete from the scope of the project any item or any combination of items, the aggregate bid prices for which do not exceed twenty-five percent of the total Bid for the project.

17.2 If a Bidder to whom a Contract is awarded forfeits the Bid security and the award of the Contract is annulled, the Owner may then award the Contract to the next lowest responsible responsive Bidder, or the work may be re-advertised, as the Owner decides.

17.3 The Contract will be awarded to a lowest responsible responsive Bidder complying with the applicable conditions of the Contract Documents, except as noted in Article 16.1 of this Section.

17.4 The Owner also reserves the right to reject the Bid of a Bidder who has previously failed to perform properly or to complete Contracts of a similar nature on time.

17.5 The Owner reserves the right to rebid the contract or contract modifications where the work has not been previously initiated, where the modification increases the original scope of work and where the rebid process will not impact existing work by the awarded Contractor.

17.6 The Owner encourages prompt and fair handling of all complaints and disputes with the business community. In order to resolve disputed matters in an equitable manner, the following procedures are adopted:

(a) Posting of Award Notices

- (1) FORMAL SEALED BIDS:** No later than three business days after a Bid opening, the Purchasing Manager or his/her designee shall post a tabulation of competitive sealed Bids on a bulletin board located in or near Purchasing Services. The apparent low bid will be the intended award recommendation. If after posting the tabulation, the apparent

low bid is found to be non-responsive to the Contract Documents, the formal award evaluation will be posted. The time for filing a protest will begin the date of the later posting.

(b) Proceedings

- (1) Any Bidder or Bidder who is allegedly aggrieved in connection with the solicitation or pending award of a contract must file a formal written protest with the Purchasing Manager within five business days of the posted award recommendation.
- (2) The formal written protest shall reference the Bid number, and shall state with particularity the facts and laws upon which the protest is based, including full details of adverse effects and the relief sought.
- (3) Within seven calendar days of receipt of the formal written protest the Purchasing Manager will arrange a meeting with the protest Committee and the affected parties. The Protest Committee shall consist of two Department Directors or designees, both of whom must be from an organizational group which the user agency is not assigned; one Assistant County Manager, who must be from an organizational group which the user department or group is not assigned. The Purchasing Manager shall act as a non-voting Hearing Coordinator and the County Attorney or designee may be requested to attend as a non-voting member. The Purchasing Manager or designee will record the meeting and provide any information as the committee may request. The purpose of the meeting of the protest Committee is to provide an opportunity to: (1) review the basis of the protest, (2) evaluate the facts and merits of the bid protest, and (3) if possible, to reach a resolution of the protest that is acceptable to the affected parties. For the purpose of the Protest Committee hearing, resolution shall mean that the Protestor finds the decision of the Protest Committee acceptable.
- (4) In the event the matter is not resolved with the Protestor's acceptance of the Protest Committee's decision, the Purchasing Manager will schedule the recommended award including the details of the protest and the Protest Committee's recommendation before the Board of County Commissioners via Board Agenda. The County Manager, prior to approval and placement on the Board agenda, may

elect to resolve the matter before presentation to the Board. In the event that the County Manager cannot bring the matter to resolution, a copy of the Agenda Report shall be furnished immediately to all affected parties. The affected parties may appear before the Board of County Commissioners as a final means of administrative remedy.

(c) Stay of Procurement During Protests

Failure to observe any and all of the above procedures shall constitute a waiver to the right to protest a contract award. In the event of a timely protest under the procedure, the County shall not proceed further with solicitation or with the award until a recommendation is made by the Committee, or a written determination is made by the County Manager that the award must be made without delay in order to protect the public interest. Invoice disputes between an awarded vendor and user agency will follow the guidelines set forth in Administrative Order-33, Prompt Payment of Invoices.

18. EXECUTION OF CONTRACT

18.1 A Bidder to whom a Contract is awarded will be required to execute, in three counterparts, the prescribed Contract within ten days from the date of Notice of Award of the Bidder's Bid and deliver the executed Contract to the Owner.

19. PUBLIC CONSTRUCTION BOND (PAYMENT AND PERFORMANCE)

19.1 SECURITY FOR FAITHFUL PERFORMANCE – FOR BIDS \$100,000 & OVER. The Successful Bidder shall furnish and record in the official records of the Brevard County Clerk of the Court, per Chapter 255 of the Florida Statutes, a Public Construction Bond (Payment and Performance) in an amount equal to one hundred percent of the Contract Sum as security for the faithful performance of this Contract and as security for the payment of all persons performing labor and furnishing materials under this Contract. The Public Construction Bond shall be in the form set forth in the Contract Documents and shall be written by sureties which are licensed to do business in the State of Florida, are currently on the U.S. Treasury List of Approved Sureties, and are acceptable to the Owner. The Public Construction Bond shall be delivered to the Owner within ten days from the receipt date of the fully executed Contract and deliver the recorded Bond to the Owner. No Work shall commence (or recommence after a default or abandonment), and the Owner shall not make a payment to the Contractor, until certified copies of the recorded bond are provided to the Owner.

Prior to final payment by the Owner, the Contractor shall execute a notarized sworn affidavit stating that all suppliers, including suppliers of labor, and materialmen have been fully paid for the project labor, materials and supplies.

SECURITY FOR FAITHFUL PERFORMANCE – FOR BIDS UNDER \$100,000 PERFORMANCE BONDS WILL BE WAIVED.

The Board of County Commissioners, in regular session, on November 04, 1997, accepted staff's recommendation to increase the threshold on construction projects for payment and performance bonds from \$50,000 to \$100,000. In conjunction with exempting surety requirements for contracts below \$100,000, the Contractor must agree to the following conditions, and post the following at the designated project site.

- (a) A document notifying all suppliers and materialmen that the Contractor has not executed a payment and performance bond shall be posted in a conspicuous place at the construction site or location where materials or suppliers are to be delivered.
- (b) The Contractor shall not be paid except for work satisfactorily completed and inspected by the appropriate representative of the Board. The Board of County Commissioners may withhold up to 5% of the total amount owed to the Contractor for the longer of 100 days of such period of time it takes the Board to determine that the requirements of subparagraph (c) and (d) below have been met.
- (c) The Contractor shall submit notarized, original Final Release of Lien forms, signed by the materialmen and suppliers indicating that they have been paid for all work, materials, and supplies prior to the release of final payment. Notwithstanding the foregoing, pursuant to section 255.05(11), Florida Statutes, when the Contractor has furnished and recorded a Public Construction Bond and provided the County with a written consent from the Surety regarding the project or payment in question, no such releases shall be required. The Surety may, in a writing served on the County, revoke its consent or direct that the County withhold a specified amount from a payment, which shall be effective upon receipt.
- (d) Prior to final payment by the Board, the contractor shall execute a notarized sworn affidavit stating that all suppliers, including suppliers of labor, and materialmen have been fully paid for the project labor, materials and supplies.

- 19.2 Within ten days of receipt of fully executed Contract, the Contractor shall provide to the Owner a copy of the Public Construction Bond that has been officially recorded in the office of the Brevard County Clerk of the Court, and shall provide a copy of same to each and every subcontractor and supplier approved for the project, and notify them of deadlines to

make claims under said bond.

- 19.3 The Public Construction Bond shall remain in force from the date of the Notice to Proceed to Final Acceptance, including the Establishment Period, as a protection to the Owner against losses resulting from latent defects in materials or improper performance of work under the Contract which may appear or be discovered during that period.
- 19.4 The Public Construction Bond shall also indemnify the Owner, and any successor to the Owner, against losses resulting from latent defects in materials or improper performance of work under the Contract which may appear or be discovered after completion of the work. The Bidder shall indemnify the Owner against all losses, damages, expenses and attorney fees, including appellate proceedings that the Owner sustains because of the default by the principal under the Contract.
- 19.5 The Public Construction Bond shall name the State of Florida, Department of Transportation as an additional obligee. All warranties on any product or material used in construction of said project shall be in favor of the State of Florida, Department of Transportation.
- 19.6 For projects less than \$100,000, a Public Construction Bond shall not be required however, the following provisions shall apply:
- (a) A document notifying all subcontractors and suppliers that the Contractor has not executed said bonds shall be posted in a conspicuous place at the construction site or location where materials or supplies are to be delivered.

All provisions under Section 7, Article 25 - Partial and Final Payments as identified in the Specifications and Contract Documents shall be adhered to regardless of where bonds are required or not.

20. QUALIFICATION OF SURETIES

- 20.1 General: The following requirements shall be met by all surety companies furnishing bonds required by this document.
- 20.2 Qualifications: As to companies being rated acceptable:
- (a) The Surety shall be rated as "A" or better as to General Policyholders Rating and Class X or better as to Financial Category by Best's Key Rating Guide, published by Alfred M. Best Company, Inc., of 75 Fulton Street, New York, New York, 10038.
- (b) The Surety shall be listed on the U.S. Department of the Treasury, Fiscal Service, Bureau of Government Financial Operations,

Circular 570, (Latest Revision) entitled, "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies".

- (c) All Surety Companies are subject to approval and may be rejected by the Owner without cause, in the same manner that bids may be rejected.

20.3 Limitations: Bonding Limits or Bonding Capacity refer to the limit or amount of Bond acceptable on any one risk. The bonding limit of the Surety shall not exceed ten percent of the policyholder surplus (capital and surplus) as listed by the aforementioned Best's Key Rating Guide, on any one risk (penalty or amount of any one bond).

20.4 Requirements:

- (a) Policyholder's surplus is required to be ten times the amount of any one bond.

21. INTERPRETATION OF ESTIMATED QUANTITIES

21.1 In the case of unit price items, the quantities of work to be done and materials to be furnished under this Contract, given in the Bid form, are to be considered as approximate only and are to be used solely for the comparison of Bids received. The Owner and Engineer of Record do not expressly or by implication represent that the actual quantities involved will correspond exactly therewith; nor shall the Bidder plead misunderstanding or deception because of such estimate of quantities or of the character, location or other conditions pertaining to the work. Payment to the Contractor will be made only for the actual quantities of work performed or material furnished in accordance with the Drawings and other Contract Documents, and it is understood that the quantities may be increased or diminished as provided in the General Conditions without in any way invalidating any of the unit or lump sum prices bid.

22. ALTERNATES

22.1 When certain items of equipment and/or materials are specified and/or described as the product of a particular manufacturer together with any required additional information such as model number, size or catalog number, only such specific items may be used in the Base Bid except as hereinafter provided.

22.2 The Contractor must judge whether alternate equipment is of comparable character and quality to the specified equipment. The Owner will not discuss, approve or disapprove any alternate equipment and/or materials before the proposals are opened. The cost of Modifications in related

work and/or additional drawings which may be required to illustrate or define the alternate equipment and its relation to the other parts of portions of the work shall be paid by the Contractor. No modification will be made in the amount of time in which to complete the work or in the liquidated damages.

23. ORAL STATEMENTS

- 23.1 No oral statements made by any person whomsoever shall in any matter or degree modify or otherwise affect the terms of the Contract Documents.

24. PRE-QUALIFICATION OF AWARDED CONSTRUCTION BIDDER

- 24.1 Brevard County Code Chapter 2, Article 7 and Board Policy-28 "Pre-Qualification of Construction Bidders Prior to Award and Contractor/Subcontractor Evaluations" require the Contractor and specified Subcontractors to submit documents which will demonstrate that the present organization and prior work experience is of adequate size and development to maintain responsible control of the project and to schedule, coordinate and perform the work in an expeditious manner in accordance with the Contract Documents. These documents will provide evidence of adequate project experience, quality workmanship, adherence to project schedule, financial soundness, depth of corporate commitment, ability to provide payment and performance bonds, safety performance, and any other pertinent data obtained from reference checks that is determined by staff, and identified below, to be a measure of the Contractor/Subcontractors qualifications. This information will be relied upon and investigated by the Owner in determining whether the Bidder is the best responsible and most qualified Bidder, and that its subcontractors are qualified to perform the Work of the Contract. In the event the Bidder is qualified but one of Bidder's subcontractors is not, the Bidder shall have five business days to submit the qualification documents with a substituted subcontractor without any change in the original bid amount.

- 24.2 The Contractor must submit the following pre-qualification documentation:

- (a) Contractor's Qualification Statement - AIA Document A305, most recent Edition.
- (b) Most current Financial Statement (less than one year). All financial information is confidential and not subject to disclosure under the Public Records Act.
- (c) Resumes of Contractor and Subcontractor's key personnel, including Project Manager and Superintendent levels.
- (d) The Bid Bond, Public Entity Crime Affidavit and Non-Collusion

Affidavit (submitted with the Bid) will be reviewed and verified.

- (e) The Vendor Affidavit Regarding Scrutinized Company List (submitted with the Bid) for services will be verified.
- (f) List of subcontractors and suppliers and items of work to be performed.
- (g) Contractor's Qualification Statement - AIA Document A305, most recent Edition for Subcontractors determined by staff and identified in the Bid to be critical to the success of the project. Key Subcontractors and their qualifications are to be identified in the Bid.
- (h) Any other pertinent qualifications, evaluations from past projects, data or information determined by staff to be critical to the success of the project.

24.3 The following Subcontractor qualifications may be required:

- (a) Subcontractors must be capable of providing 100% Payment and Performance Bonds and provide written documentation from Surety Company documenting this ability, if requested by the Owner.
- (b) Subcontractors must provide proof of a minimum of five years' experience in the trade for which they are being contracted, if requested by the Owner

24.4 The apparent low Bidder, after the formal Bid opening, will be required to submit the information above within five business days from Notice of Apparent Lowest Bidder for staff review and approval by the appropriate Review and Qualification Committee. If the apparent low Bidder cannot provide adequate documents for review, or the submitted documents give indications of a non-stable or unqualified company, the Contractor will be recommended by staff for Bid rejection and the apparent second low Bidder will be contacted and afforded the previous mentioned five business days to submit their pre-qualification documents. This process will continue until the lowest responsive, qualified Bidder is established. In the event the Bidder is qualified but one of Bidder's subcontractor's is not, the Bidder shall have five business days to submit the qualification documents of a substitute subcontractor without any change in the original bid amount.

24.5 The Owner will consider, in determining the qualifications of a Bidder, or a Bidder's subcontractors, the contractor's and subcontractor's record in the performance of any contracts for construction work with the Owner or with similar public or private bodies or corporations. The Owner expressly

reserves the right to reject the bid and/or subcontractor of any Bidder if such record discloses that such Bidder, in the opinion of the Owner, is not the best or most qualified Bidder or that Bidder and/or subcontractor has not properly performed its contracts or has habitually and without just cause neglected the payment of bills, or has otherwise disregarded his obligations, subcontractors, material men, suppliers or employees.

- 24.6 The Owner may make such investigation as they deem necessary to determine the responsibility, qualifications and ability of the Bidder and/or its subcontractor to perform the work, and the Bidder shall furnish to the Owner all such information and data for this purpose as he may request. The Owner reserves the right to reject any bid if the evidence submitted by, or investigation of such Bidder and/or subcontractor, fails to satisfy the Owner that such Bidder is a responsive and responsible Bidder in accordance with the criteria set forth herein, or that such subcontractor is qualified. The ability to secure payment and performance bonds for the Work shall not be conclusive evidence of Bidder and/or subcontractor's financial responsibility. Conditional bids will not be accepted.
- 24.7 **UNAUTHORIZED ALIEN WORKERS:** Brevard County will not accept bids from Contractors who knowingly employ unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S. Code § 1324a(e) (Section 274A(e) of the Immigration and Nationality Act "INA"). The County shall consider a Contractor's intentional employment of unauthorized aliens as grounds for immediate termination of any awarded proposal. The CONTRACTOR shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the CONSULTANT during the term of the Contract and shall expressly require any subcontractors performing work or providing services pursuant to the Contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the Contract term. **If the County is unable to electronically verify the lowest responsive responsible Contractor participates in the E-Verify Program; the lowest responsive responsible CONTRACTOR SHALL be required to submit a copy of the fully executed E-Verify Memorandum of Understanding before the County will enter into contract or issue notice to proceed with Contractor.**

**SECTION 3
BID**

Viera Boulevard and Interstate 95 Landscape Project

Board of County Commissioners
c/o Purchasing Services
2725 Judge Fran Jamieson Way,
Building C, Third Floor, Suite 303
Government Center,
Viera, FL 32940

Total Bid: \$ 581,130.00

Contractor's Name:
Arazoza Brothers Corporation

Commissioners:

The duly licensed construction contracting firm of **Arazoza Brothers Corporation** has completed all required bid documents and has prepared this Bid for submission on this date for further consideration by the Commission.

The undersigned, as Bidder, hereby declares that the only person or persons interested in the Bid, as principal or principals, is or are named herein of the Contract to which the work pertains; that this Bid is made without connection or arrangement with any other person, company, or parties making a bid and that the Bid is in all respects fair and made in good faith without collusion or fraud.

The Bidder further declares that the Bidder has examined the site of the work and that from personal knowledge and experience, or that the Bidder has made sufficient test holes and/or other subsurface investigations to be fully satisfied that such site is a correct and suitable one for this work and the Bidder assumes full responsibility therefore; that the Drawings and Specifications for the work have been examined and from the Bidders own experience or from professional advice that the Drawings and Specifications are sufficient for the work to be done and the Bidder has examined the other Contract Documents relating thereto, including the Advertisement for Bids, Bid Instructions, Bid, Bid Security or Bid Bond, Contract, Public Construction Bond, General Conditions, Special Conditions, Supplemental Specifications, Permits, and Geotechnical and has read all addenda prior to the opening of bids, and that the Bidder has been fully satisfied, relative to all matters and conditions with respect to the work to which this Bid pertains.

The Bidder proposes and agrees, if this Bid is accepted, to contract with the Board of County Commissioners of Brevard County, Florida, (Owner) in the form of contract specified, to furnish all necessary materials, all equipment, all necessary machinery, tools, apparatus, means of transportation, and labor necessary to complete the work specified in the Bid and the Contract, and called for by the Drawings and Specifications and in a manner specified.

The Bidder further proposes and agrees to comply in all respects with the time limits for commencement and completion of the work as stated in the Contract Documents.

The Bidder further agrees that the deductions for liquidated damages, as stated in the Contract Documents, constitute fixed, agreed, and liquidated damages to reimburse the Owner for additional costs to the Owner resulting from the work not being completed within the time limit stated in the Contract Documents.


The Bidder has included a certification that it possesses all qualifications required by the Florida Department of Transportation for all work under this Contract.

The Bidder further agrees to execute a Contract and furnish satisfactory Public Construction Bond in the amount of one-hundred percent of the Contract price and a Certificate of Insurance showing coverages in accordance with contract requirements, within ten consecutive calendar days after written notice being given by the Owner of the award of the Contract, and the undersigned agrees that in case of failure on the Contractor's part to execute the said Contract, Public Construction Bond, and Insurance Certificate within the ten consecutive calendar days after the award of the Contract, the cashier's check or Bid Bond accompanying the Bid and the money payable thereon shall be paid to the Owner as liquidated damages sustained by the Owner; otherwise, the check accompanying the Bid shall be returned to the undersigned after the Contract is signed and the Public Construction Bond and Certificate of Insurance are filed.

The Bidder further agrees that, within ten days of execution of the contract, by both parties, the Bidder shall provide to the Owner, a copy of the Public Construction Bond that has been officially recorded in the office of the Brevard County Clerk of the Court, and shall provide a copy of same to each and every subcontractor approved for the project, and notify them of deadlines to make claims under said bonds.

The undersigned agrees to accept in full compensation therefore the total of the lump sum prices and extended unit prices for items named in the following schedule. It is understood that the unit prices quoted or established for a particular item are to be used for computing the amount to be paid to the Contractor, based on the quantities actually constructed as determined by the applicable measurement and payment portion of the technical specifications.

Bidders Occupational License No. 2221521

Signature of Bidder: 

Printed Name and Title: ALBERTO ARIZA, President

Submitted Date: 05/27/2020

VIERA BOULEVARD AND I-95 LANDSCAPE

BID FORM

Item Number	Description	Unit	Quantity	Written Unit Cost	Unit Cost	Extended Cost
101- 1-	MOBILIZATION	Lump Sum	1	thirty thousand dollars	\$ 30,000.00	\$ 30,000.00
102- 1-	MAINTENANCE OF TRAFFIC	Lump Sum	1	thirty thousand dollars	\$ 30,000.00	\$ 30,000.00
110- 1- 1	CLEARING & GRUBBING	Lump Sum	1	thirty thousand dollars	\$ 30,000.00	\$ 30,000.00
580-1-1	LANDSCAPE COMPLETE - SMALL PLANTS	Lump Sum	1	fifty-three thousand, four hundred eighty	\$ 53,480.00	\$ 53,480.00
580-1-2	LANDSCAPE COMPLETE - LARGE PLANTS	Lump Sum	1	three hundred sixty-five thousand, six hundred fifty	\$ 365,650.00	\$ 365,650.00
581-1	ESTABLISHMENT PERIOD	Lump Sum	1	seventy-two thousand	\$ 72,000.00	\$ 72,000.00
five hundred eighty one thou., one hundred thirty					Total Bid	\$ 581,130.00

VENDOR NAME Aragoza Brothers Corp.

PRINTED SIGNATURE Eduardo Aragoza, Vice President

AUTHORIZED SIGNATURE 

PHONE # (305) 246-3223 FAX# (305) 246-0481 DATE 05/29/2020

EMAIL ADDRESS aaragoza@arazozabrothers.com

Electronic Bid Form may be completed electronically on Excel spreadsheet. Electronically completed spreadsheet should be saved on CD and included with bid submittal. Bidders must also print out a hard copy of the completed Bid Form, sign where indicated, and submit with bid. DO NOT MODIFY OR RE-ISSUE THE BID FORM. USE THE BID FORM PROVIDED.

ADDENDA ACKNOWLEDGMENT

Acknowledgment is hereby made of the following Addenda received since issuance of Drawings and Contract Documents:

Addendum No. <u>1</u>	Dated: <u>04/30</u>	Addendum No. _____	Dated: _____
Addendum No. <u>2</u>	Dated: <u>05/20</u>	Addendum No. _____	Dated: _____
Addendum No. _____	Dated: _____	Addendum No. _____	Dated: _____

Arazoza Brothers Corporation

(Name of Bidder) (Affix Seal)

(Signature of Officer)

President
(Title of Officer)

Address: 15901 SW 2nd Street

City Homestead State FL

The full names and residences of persons and firms interested in the foregoing Bid, as Principals, are as follows:

Alberto Arazoza - President / Secretary 9700 SW 93 Avenue
Miami, FL 33176

Eduardo Arazoza - VP / Treasurer 470 Campana Avenue
Coral Gables, FL 33156

Names of the executives who will give personal attention to the work:

Omar Escariza + Felipe Mejia

Attach list of Subcontractors as required by Article 7.5(c) of Bid Instructions.

NO Subs.



Purchasing Services
2725 Judge Fran Jamieson Way
Building C, Room 303
Viera, Florida 32940

Viera Boulevard and Interstate 95 Landscape Project
B-2-20-46
DATE: April 30, 2020
Addendum 1

TO ALL PROSPECTIVE BIDDERS

This is an Addendum to and shall be considered as part of the original bid package for the above-mentioned bid. Please acknowledge receipt of Addendum 1 in space provided on Price Sheet. Bidders are requested to acknowledge receipt of this addendum with their bid.

ADDITIONAL INFORMATION:

Please note that the plans, signed and sealed on March 2, 2020, for this project are attached to Addendum 1. Please see Attachment A: Contract Plans attached to this Addenda for the plans for this project.

Please note that the bid opening date and time remains Wednesday, May 27, 2020 at 2:00 PM.

All other terms and conditions remain unchanged.

Sincerely,

A handwritten signature in black ink, appearing to read 'Steven A. Darling, Jr.', is written over a faint, illegible typed name.

Steven A. Darling, Jr.
Director, Central Services

cc: file
Public Works Department

END OF ADDENDUM 1

Attachment A
STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

CONTRACT PLANS

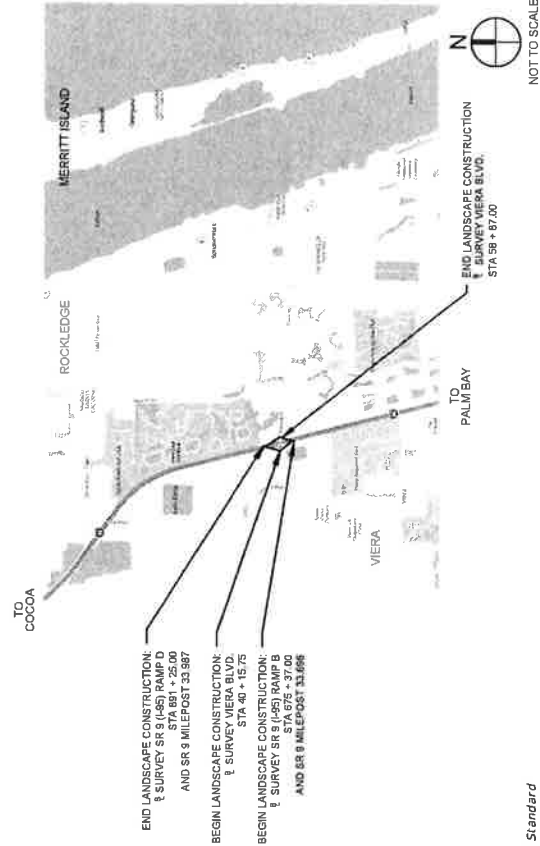
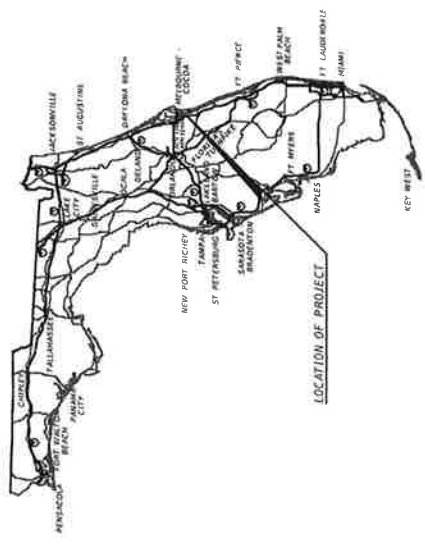
FINANCIAL PROJECT ID 428238-2-58-01
 FINANCIAL PROJECT ID 428238-3-58-01
 BREVARD COUNTY (70220)
 STATE ROAD NO. SR9 (I-95)

**VIERA BOULEVARD / SR 9 (I-95)
 DIVERGING DIAMOND INTERCHANGE
 LANDSCAPE PLANS**

CONTRACT PLAN COMPONENTS
 LANDSCAPE PLANS

INDEX OF LANDSCAPE PLANS

SHEET NO.	SHEET DESCRIPTION
1	KEY SHEET
2	SUMMARY OF PAY ITEMS
3	GENERAL NOTES
4	PROJECT LAYOUT
5	SELECTIVE CLEARING & GRUBBING PLAN
6 - 15	LANDSCAPE PLANS
16	LANDSCAPE DETAILS
17	TABULATION OF QUANTITIES



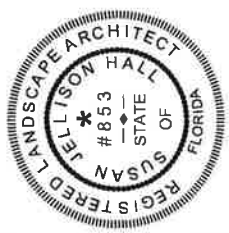
KEY SHEET REVISIONS	
DATE	DESCRIPTION

GOVERNING STANDARD PLANS:
 Florida Department of Transportation, FY 2019-20 Standard Plans at the following website:
<http://www.flot.com/design/standardplans/current/default.shtm>

GOVERNING STANDARD SPECIFICATIONS:
 Florida Department of Transportation, January 2020, Supplemental Specification Section 580 (LANDSCAPING) SP5800000 (Rev. 1/19/2019) (FA)
<https://dotwebprod01.flot.com/SpecificationPackage/Package/Workbook/LAP/Specifications5selection.aspx>
 Standard Specifications for Road and Bridge Construction at the following website:
<http://www.flot.com/programmanagement/implemented/SpecBooks>

LANDSCAPE ARCHITECT OF RECORD:
 SUSAN JELLISSON HALL, R.L.A.
 FL LICENSE NO.: 853

THIS ITEM HAS BEEN DIGITALLY SIGNED AND SEALED BY



ON THE DATE ADJACENT TO THE SEAL
 PRINTED COPIES OF THIS DOCUMENT
 ARE NOT CONSIDERED SIGNED AND SEALED
 UNLESS THE SIGNATURE HAS BEEN
 VERIFIED ON ANY ELECTRONIC COPIES

Susan Hall, ASLA
 LANDSCAPE ARCHITECTURE
 4425 COCKED MILE RD.
 MERRITT ISLAND, FL 32952
 PHONE: (321) 449-0790
 FAX: (321) 449-1225
 www.hallia.com

FDOT PROJECT MANAGER:
 Steve Smith

CONSTRUCTION CONTRACT NO.	FISCAL YEAR	SHEET NO.
	20	1

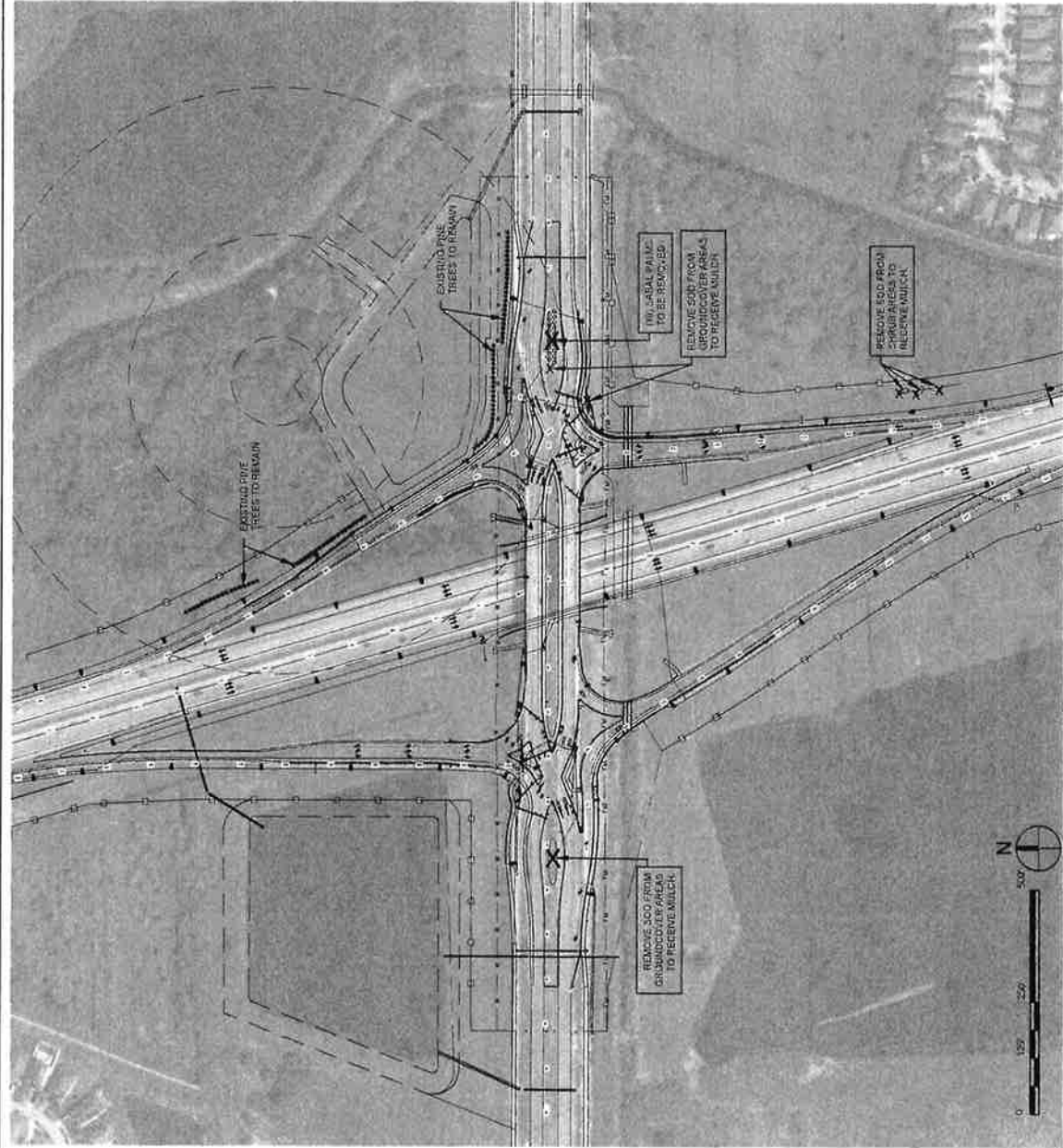
**FLORIDA DEPARTMENT OF TRANSPORTATION
SUMMARY OF PAY ITEMS**

FOR PROJECT: 42823B-2 (SR 9)

ITEM NUMBER	DESCRIPTION	UNIT	QTY
101- 1-	MOBILIZATION	Lump Sum	1
102- 1-	MAINTENANCE OF TRAFFIC	Lump Sum	1
110- 1- 1	CLEARING & GRUBBING	Lump Sum	1
580-1-1	LANDSCAPE COMPLETE - SMALL PLANTS	Lump Sum	1
580-1-2	LANDSCAPE COMPLETE - LARGE PLANTS	Lump Sum	1
581-1	ESTABLISHMENT PERIOD	Lump Sum	1

SEE SHEET 17 FOR COMPLETE TABULATION OF QUANTITIES.

REVISIONS DATE DESCRIPTION DATE DESCRIPTION		SUSAN HALL LANDSCAPE ARCHITECTURE, INC. 4828 CROOKED HOLE ROAD TAMPA, FL 33632 PH: 321-449-0790 SUSAN JELLISSON HALL, R.L.A. FL LICENSE NUMBER 853		STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION ROAD NO. COUNTY FINANCIAL PROJECT ID SR 9 BREVARD 42823B-2.5B-01		SUMMARY OF PAY ITEMS SHEET NO. 2



SHEET NO. 5

SELECTIVE CLEARING & GRUBBING PLAN

STATE OF FLORIDA	
DEPARTMENT OF TRANSPORTATION	
ROAD NO.	FINANCIAL PROJECT ID
SR 9	428228-2-58-01
COUNTY	FINANCIAL PROJECT ID
BREVARD	428228-2-58-01

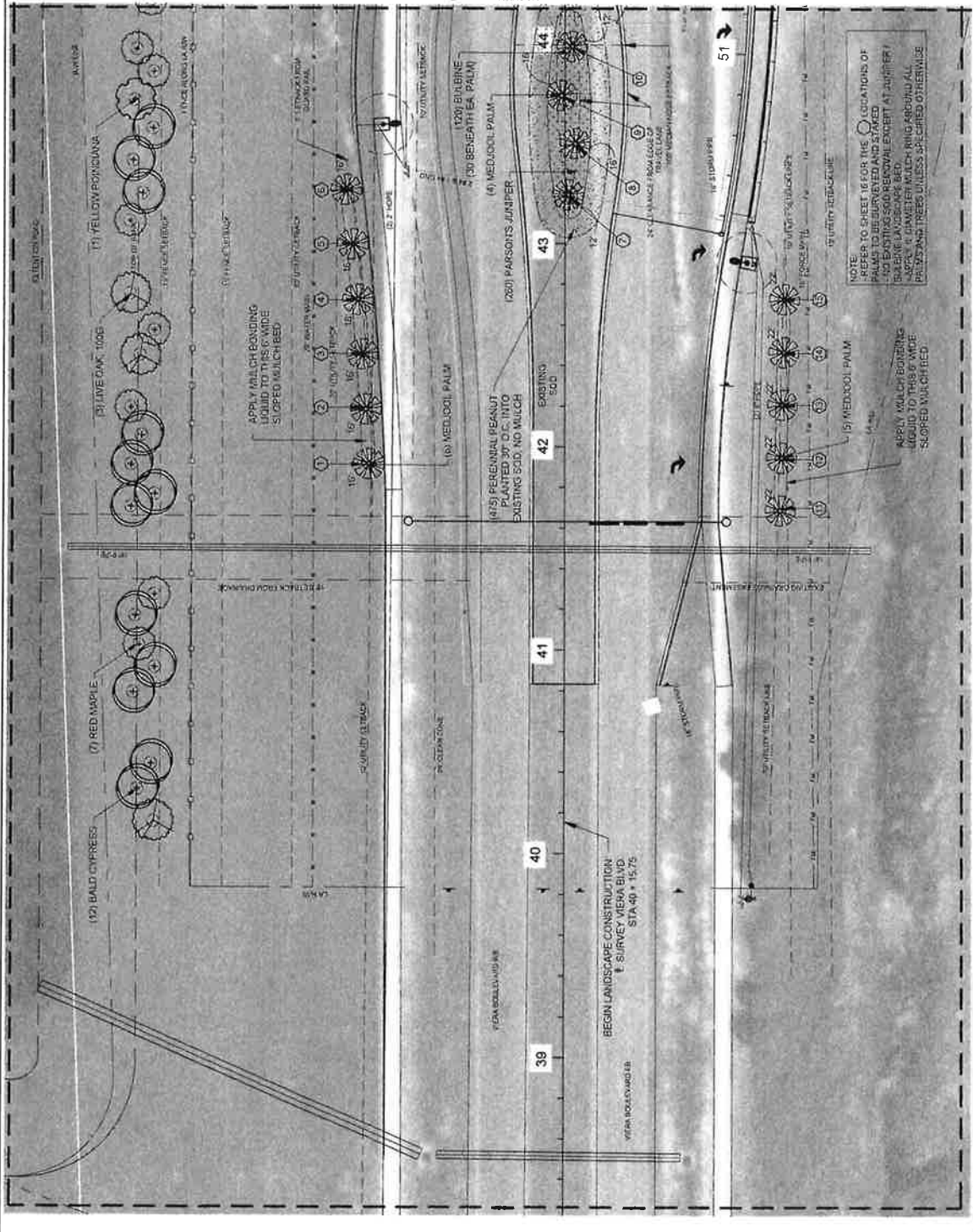
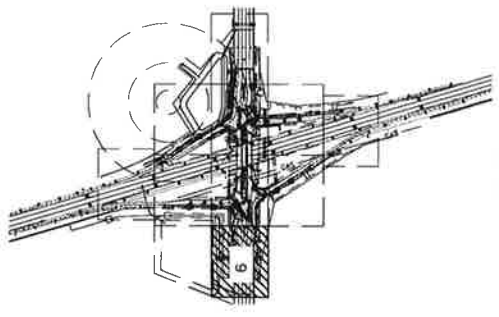
SUSAN HALL LANDSCAPE ARCHITECTURE, INC.
 4425 CROOKED HOLE ROAD
 PALM BEACH, FL 33480
 PH: 321-485-0790
 SUSAN JELLISSON HALL, R.L.A.
 FL LICENSE NUMBER 853

REVISIONS	
DATE	DESCRIPTION



LANDSCAPE LEGEND

- QUERCUS VIRGINIANA - LIVE OAK
- FULTONIA HINDII - YELLOW POINCIANA
- TAXODIUM DISTICHUM - BALD CYPRESS
- ACER RUBRUM - RED MAPLE
- PINUS ELLIOTTII - SLASH PINE
- PHOENIX DACTYLIFERA 'MEDJOO' - MEDJOO DATE PALM
- X BUTIAGRUS MUBOWAMANDI - MULLE PALM
- BULBINE FRUTESCENS - BULBINE
- SERENOA REPENS 'SILVER' - SILVER SAW PALMETTO
- JUNIPERUS CHINENSIS 'PARSONS' - PARSONS JUNIPER
- APADIS GIABRATA - PERENNIAL PEANUT
- SABAL PALMETTO - CABBAGE PALM
- LIVISTONA CHINENSIS - CHINESE FAN PALM



DATE	DESCRIPTION	REVISIONS	DATE	DESCRIPTION

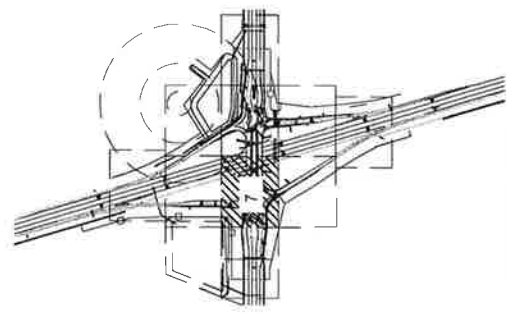
SUSAN HALL LANDSCAPE ARCHITECTURE, INC. 4425 CROoked MILE ROAD MERRITT ISLAND, FL 32952 PH: 321-449-0750 JESSIE WELLSON HALL, R.L.A. FL LICENSE NUMBER 8873		STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
ROAD NO. SR 9	COUNTY BREVARD	FINANCIAL PROJECT ID 428238-2-56-01

LANDSCAPE PLAN		SHEET NO. 6
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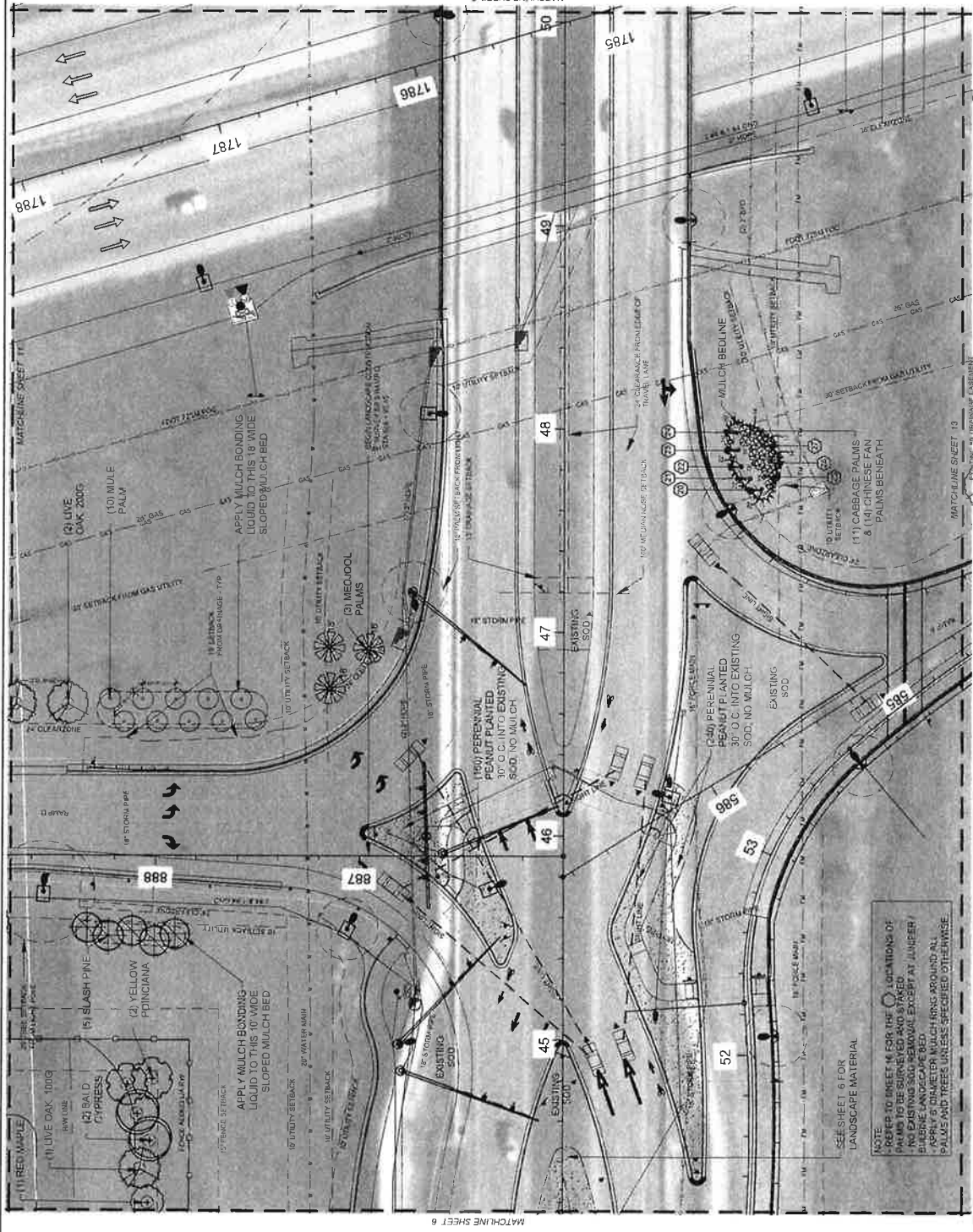


LANDSCAPE LEGEND

- QUERCUS VIRGINIANA - LIVE OAK
- PELTOPHORUM DUBIUM - YELLOW PONCIANA
- TAXODIUM DISTICHUM - BALD CYPRESS
- ACER RUBRUM - RED MAPLE
- PINUS ELLIOTTI - SLASH PINE
- PHOENIX DACTYL YFERA - MEDJOOZ - MEDJOOZ DATE PALM
- X BUTIAGRUS NARBONNENSIS - MULE PALM
- BULBINE FRUTESCENS - BULBINE
- SERENOA REPENS SILVER - SILVER SAW PALMETTO
- JUNIPERUS CHINEENSIS PARSONI - PARSONS JUNIPER
- ARICARIA GLABRATA - PERENNIAL PEANUT
- SABAL PALMETTO - CABBAGE PALM
- LIVISTONA CHINEENSIS - CHINESE FAN PALM



LOCATION KEY
SCALE 1" = 1,000'-0"



SEE SHEET 6 FOR LANDSCAPE MATERIAL

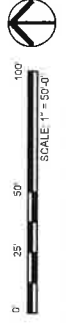
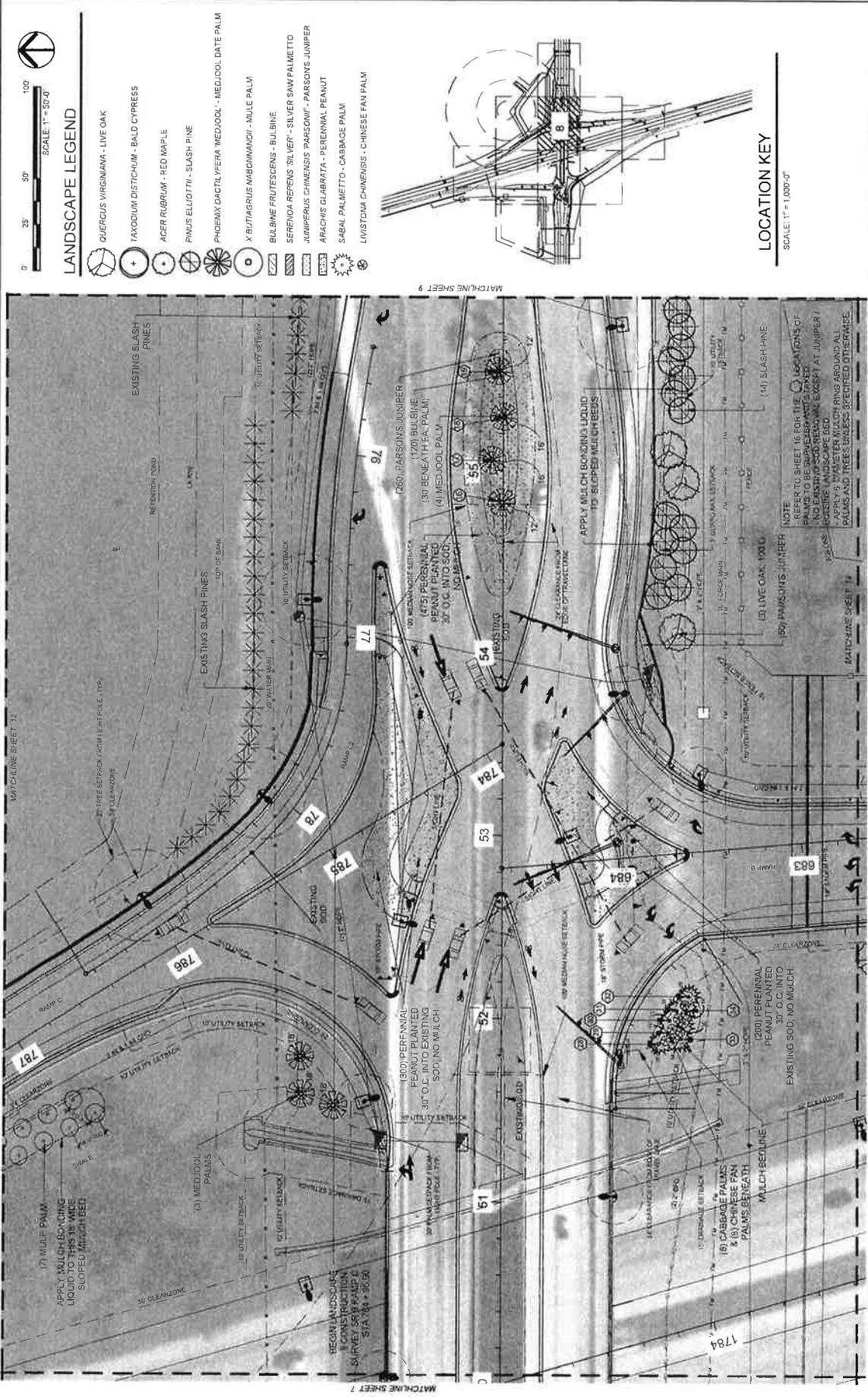
NOTE:
 1. REFER TO SHEET 14 FOR THE LOCATIONS OF PLANTINGS TO BE SIGNED AND STAMPED.
 2. NO EXISTING SOD REMOVAL EXCEPT AT JUNIPER BULBINE LANDSCAPE BED.
 3. APPLY 6\"/>

DATE	DESCRIPTION	REVISIONS	DATE	DESCRIPTION

STATE OF FLORIDA		DEPARTMENT OF TRANSPORTATION	
ROAD NO.	COUNTY	FINANCIAL PROJECT ID	
SR 9	BREVARD	428238-2-58-01	

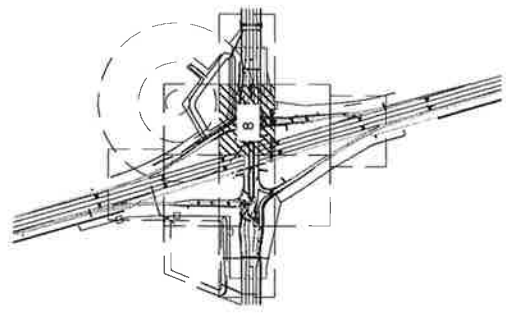
SUSAN HALL LANDSCAPE ARCHITECTURE, INC.		4425 CROOKED MILE ROAD	
MEMPHIS ISLAND, FL 32952		PH: 321-449-0790	
SUSAN JELLSOHN HALL, R.L.A.		FL LICENSE NUMBER 835	

LANDSCAPE PLAN		SHEET NO.	7
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LANDSCAPE LEGEND

- QUERCUS VIRGINIANA - LIVE OAK
- TAXODIUM DISTICHUM - SLASH PINE
- ACER RUBRUM - RED MAPLE
- PINUS ELIOTTII - SLASH PINE
- PHOENIX DACTYLIFERA 'MEDJOL' - MEDJOL DATE PALM
- X BUTIAGRUS MABONWANDI - MULLE PALM
- BULBINE FRUTESCENS - BULBINE
- SERENOA REPENS SILVER - SILVER SAW PALMETTO
- JUNIPERUS CHINENSIS 'PARSONI' - PARSONS JUNIPER
- APACHIS GLABRATA - PERENNIAL PEANUT
- SABAL PALMETTO - CABBAGE PALM
- LIMSTOMA CHINENSIS - CHINESE FAN PALM



LOCATION KEY

SCALE: 1" = 1,000'-0"

DATE	DESCRIPTION	REVISIONS	DATE	DESCRIPTION

SUSAN HALL LANDSCAPE ARCHITECTURE, INC. 4025 CROOKED MILE ROAD MERRITT ISLAND, FL 32952 PH: 321-469-0790 FL LICENSE NUMBER 833		STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION	
ROAD NO.	COUNTY	FINANCIAL PROJECT ID	
SR 9	BREVARD	428238-2-56-01	

SHEET NO.	8
LANDSCAPE PLAN	FILE

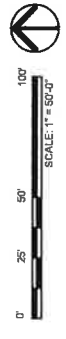
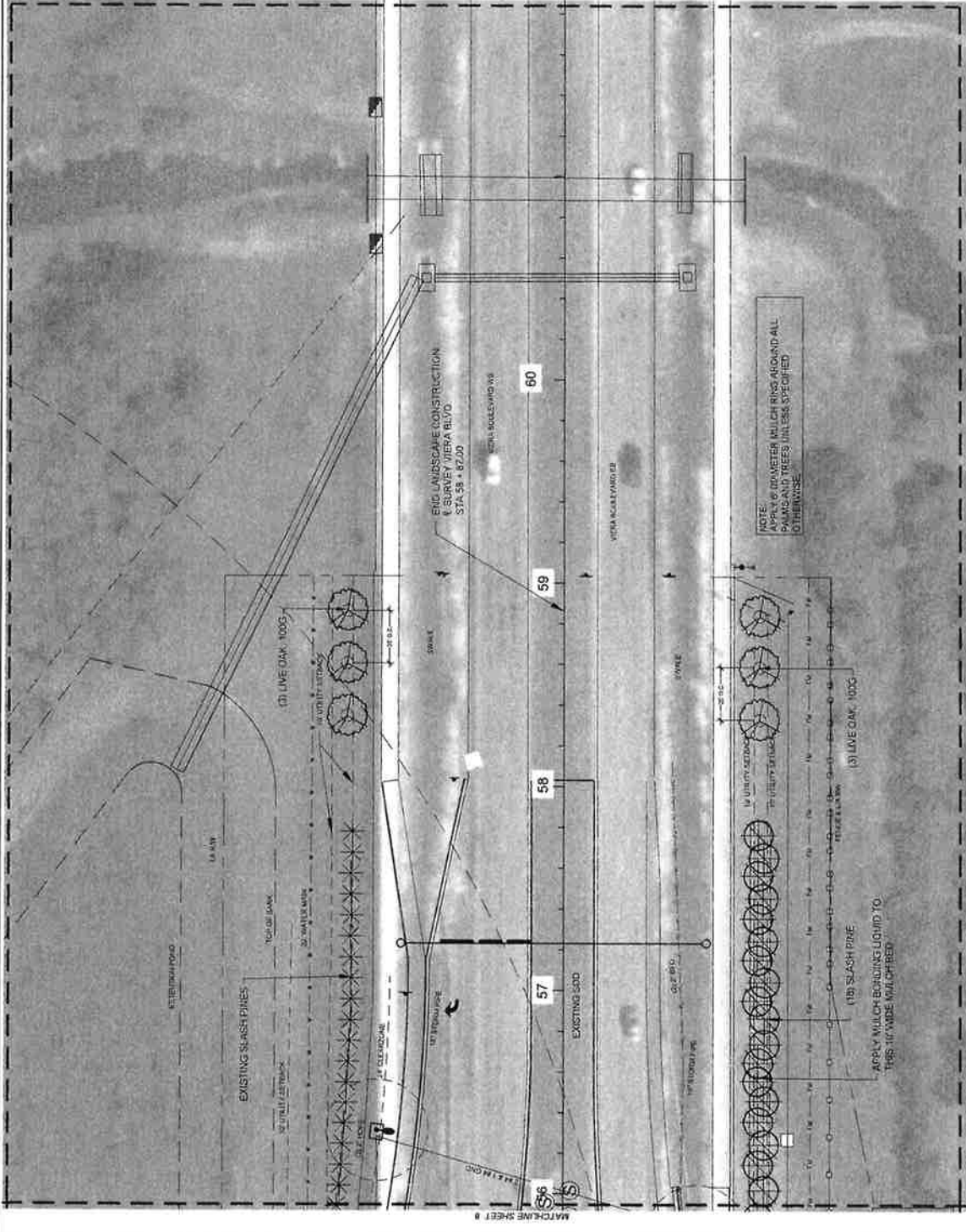
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msd/rlf

MATCHLINE SHEET 7

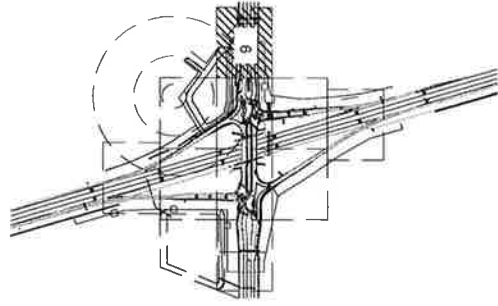
MATCHLINE SHEET 9

MATCHLINE SHEET 12



LANDSCAPE LEGEND

- QUERCUS VIRGINIANA - LIVE OAK
- TAXODIUM DISTICHUM - BALD CYPRESS
- ACER RUBRUM - RED MAPLE
- PINUS ELLIOTTI - SLASH PINE
- PHOENIX DACTYLIFERA - MEDICINAL DATE PALM
- X BUTIAGRUS MABONMANNI - MULE PALM
- BULBINE FRUTESCENS - BULBINE
- SERENOA REPENS 'SILVER' - SILVER SAW PALMETTO
- JUNIPERUS CHINENSIS 'PARSONI' - PARSONS JUNIPER
- ARACHIS GLABRATA - PERENNIAL PEANUT
- SABAL PALMETTO - CABBAGE PALM
- LIVINGSTONIA CHINENSIS - CHINESE FAN PALM



LOCATION KEY

SCALE: 1" = 1,000'-0"

DATE	DESCRIPTION	DATE	DESCRIPTION

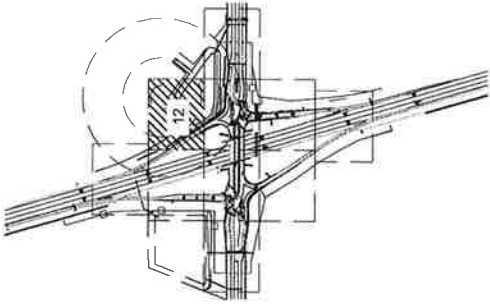
SUSAN HALL LANDSCAPE ARCHITECTURE, INC. 4825 CROOKED HOLE ROAD PALM BEACH, FL 33452 PH: 321-448-0790 SUSAN JELLISSON HALL, AIA FL LICENSE NUMBER 953		STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION	ROAD NO. SR 9	COUNTY BREVARD	FINANCIAL PROJECT ID 428236-2-58-01
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LANDSCAPE PLAN	SHEET NO. 9
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LANDSCAPE LEGEND

- QUERCUS VIRGINIANA - LIVE OAK
- TAXODIUM DISTICHUM - BALD CYPRESS
- ACER RUBRUM - RED MAPLE
- PINUS ELLIOTTII - SLASH PINE
- PHOENIX DACTYLOPERA WEDDOL - MED. COOL DATE PALM
- BUTIAGRUS NABOIMANDI - MULE PALM
- BULBINE FRUTESCENS - BULBINE
- SERENOA REPENS SILVER - SILVER SAW PALMETTO
- JUNIPERUS CHINENSIS PARSONII - PARSONS JUNIPER
- ARACHIS GLABRATA - PERENNIAL PEANUT
- SABAL PALMETTO - CABBAGE PALM
- LIVISTONA CHINENSIS - CHINESE FAN PALM



LOCATION KEY

SCALE: 1" = 1,000'-0"



NOTE: APPLY 6\"/>

DATE	DESCRIPTION	REVISIONS	DATE	DESCRIPTION

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION		FINANCIAL PROJECT ID 428236-7-58-01	
ROAD NO. SR 9	COUNTY BREVARD	SHEET NO. 12	

SUEAN HALL LANDSCAPE ARCHITECTURE, INC. 4425 CROOKED HOLE ROAD MERRITT ISLAND, FL 32952 PH. 321-489-0790 FAX. 321-489-0791 FL LICENSE NUMBER 863		DRAWN BY: [Name] CHECKED BY: [Name] DATE: [Date]	
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MATCHLINE SHEET 11

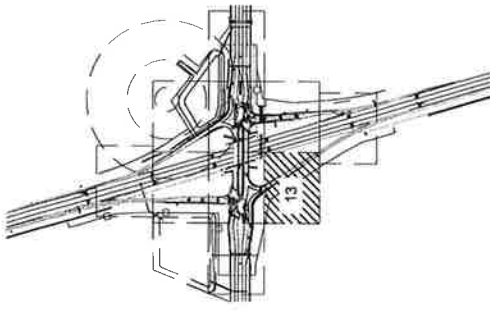
93-92-26 4 2006 FILE



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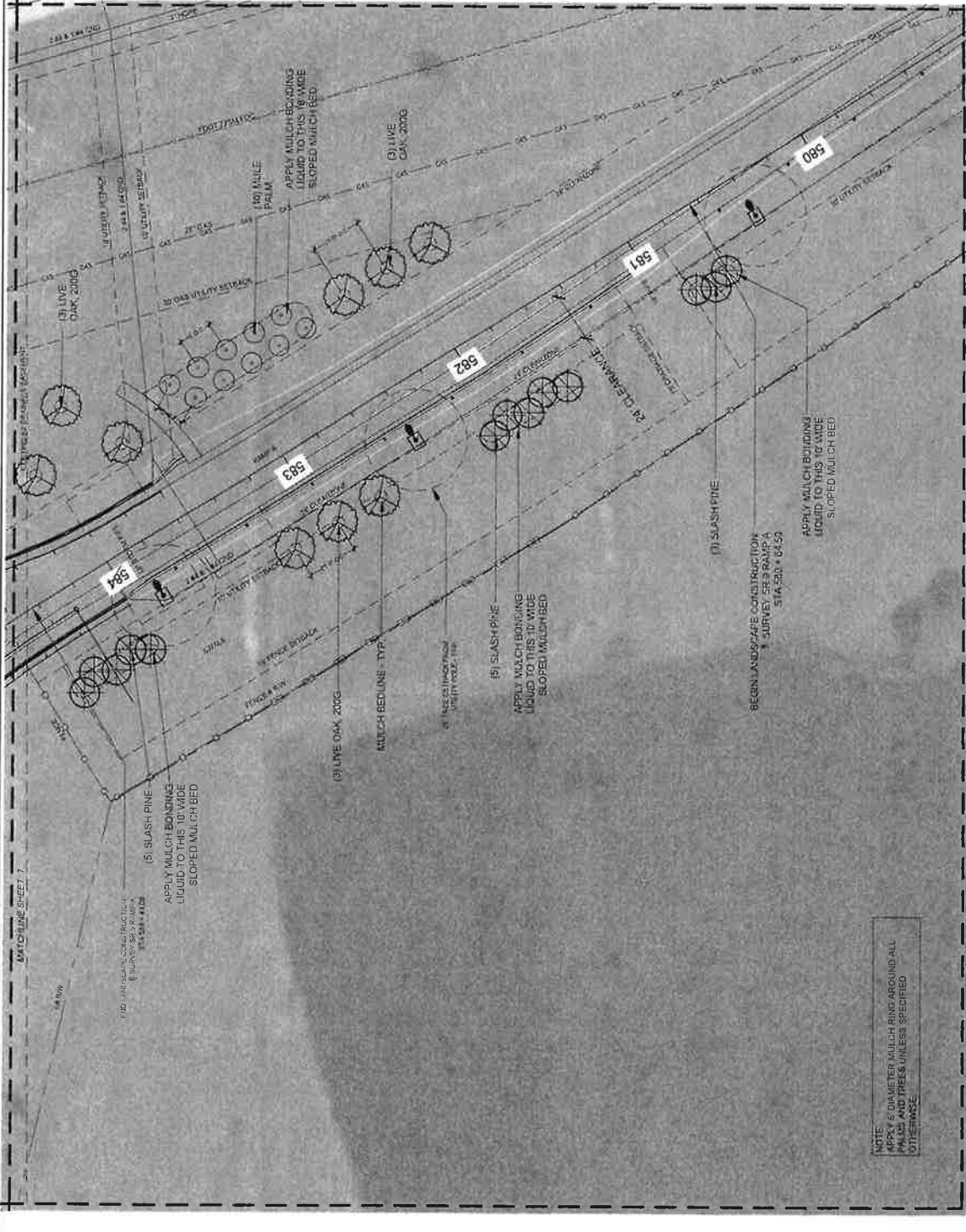
LANDSCAPE LEGEND

- QUERCUS VIRGINIANA - LIVE OAK
- TAXODIUM DISTICHUM - BALD CYPRESS
- ACER RUBRUM - RED MAPLE
- PINUS ELLIOTTII - SLASH PINE
- PHOENIX DACTYLIFERA MEDJOLA - MEDJOLA DATE PALM
- X BUTRAGRUS NABONWANDII - MULE PALM
- BILBINE FRUTESCENS - BULBINE
- SENEGODA REPENS SILVER - SILVER SAW PALMETTO
- JUNIPERUS CHINENSIS PARSONI - PARSONS JUNIPER
- ARACHIS GLABRATA - PERENNIAL PEANUT
- SABAL PALMETTO - CABBAGE PALM
- LIVISTONA CHINENSIS - CHINESE FAN PALM



LOCATION KEY

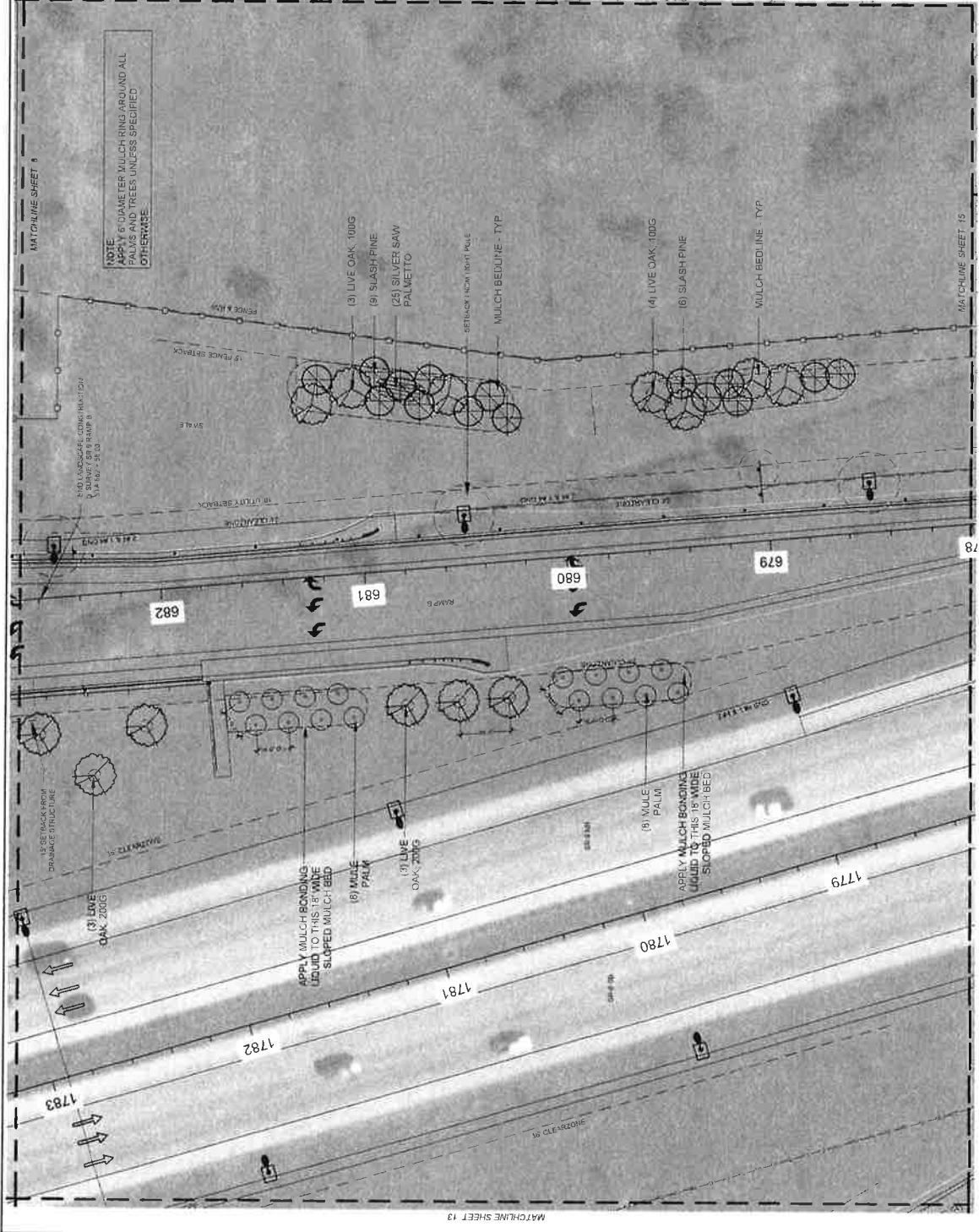
SCALE: 1" = 1,000.00'



NOTE
APPLY 6" DIAMETER MULCH RING AROUND ALL PALMS AND TREES UNLESS SPECIFIED OTHERWISE

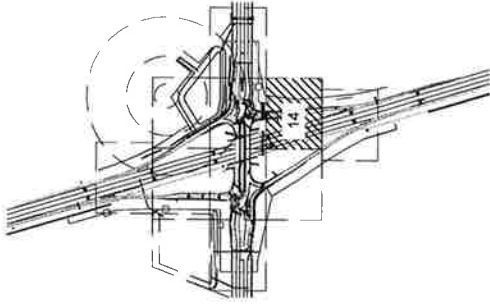
DATE	DESCRIPTION	REVISIONS	DATE	DESCRIPTION

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION		SHEET NO. 13	
COUNTY BREVARD		LANDSCAPE PLAN	
ROAD NO. SR 9	FINANCIAL PROJECT ID 428236 2-58 01	FILE	
SUSAN HALL LANDSCAPE ARCHITECTURE, INC. 1000 W. UNIVERSITY BLVD., SUITE 100 ABERNATHY, FLORIDA 32502 PH. 352-449-0730 SUSAN JELLISSON HALL, R.L.A. FL LICENSE NUMBER 853			



LANDSCAPE LEGEND

- QUERCUS VIRGINIANA - LIVE OAK
- TAXODIUM DISTICHUM - BALD CYPRESS
- ACER RUERUM - RED MAPLE
- PINUS ELLIOTTII - SLASH PINE
- PHOENIX DACTYLIFERA MEDJUL - MEDJUL DATE PALM
- X BUTIAGRUS NABONMANDII - WULE PALM
- BUI BINE FRUTESCENS - BUI BINE
- SERENOA REPENS SILVER - SILVER SAW PALMETTO
- JUNPERUS CHINENSIS PARSONII - PARSONS JUNIPER
- AFACHIS GLABRATA - PERENNIAL PEANUT
- SABAL PALMETTO - CABBAGE PALM
- LIVSTONA CHINENSIS - CHINESE FAN PALM



LOCATION KEY

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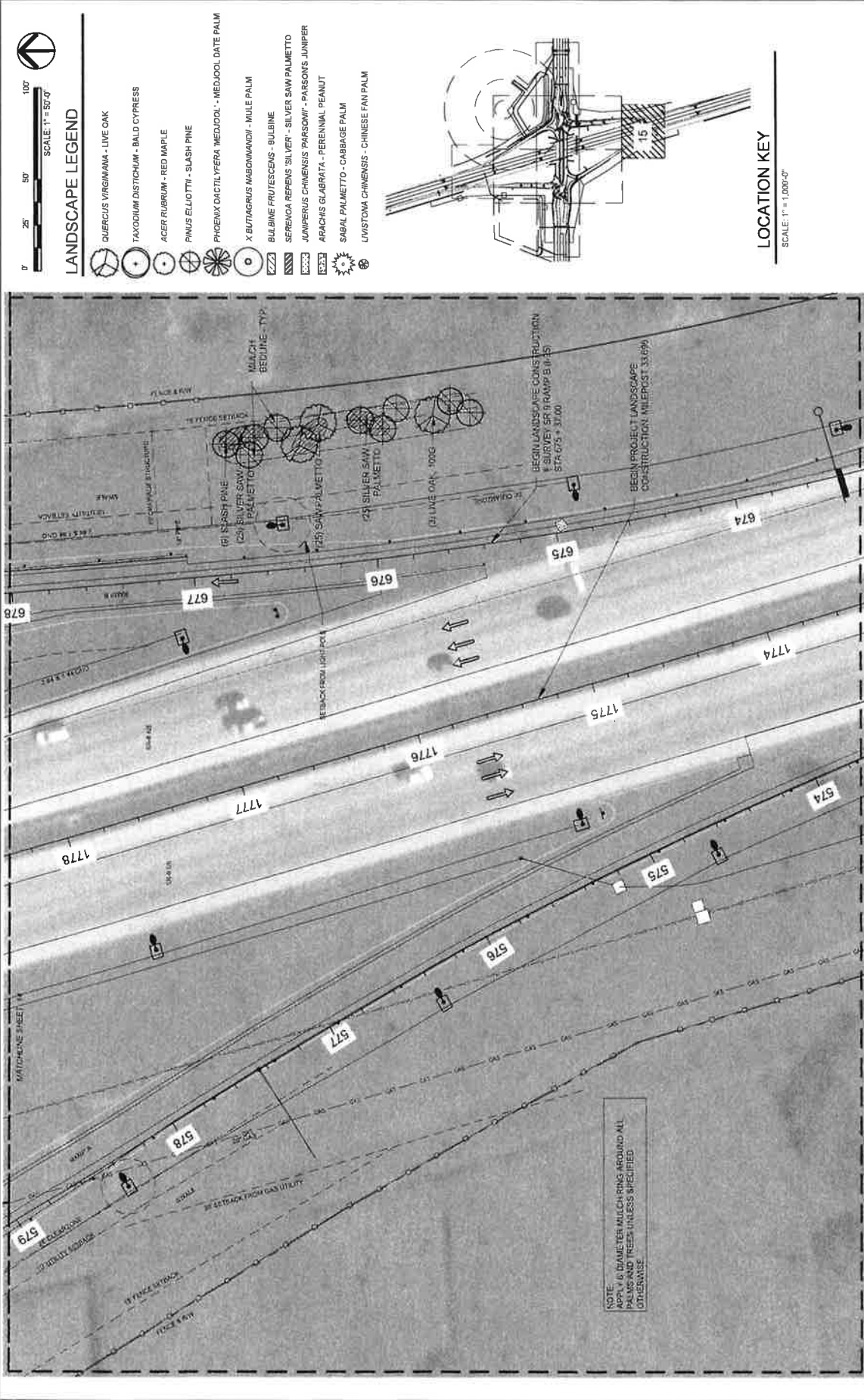
SHEET NO. 14

LANDSCAPE PLAN

STATE OF FLORIDA	DEPARTMENT OF TRANSPORTATION
ROAD NO. SR 9	COUNTY BREVARD
FINANCIAL PROJECT ID 478238-2-58 01	

SUSAN HALL LANDSCAPE ARCHITECTURE, INC.
 4455 CROOKED HOLE ROAD
 SUITE 100
 PALM BEACH, FL 33424
 PH: 321-435-0790
 SUSAN JELLISSON HALL, R.L.A.
 FL LICENSE NUMBER 853

DATE	DESCRIPTION	DATE	REVISIONS



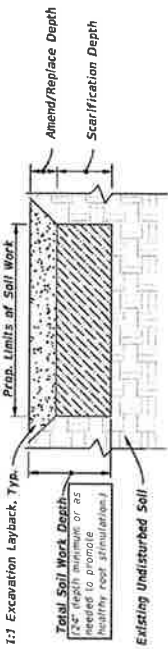
LANDSCAPE LEGEND

- QUERCUS VIRGINIANA - LIVE OAK
- TAXODIUM DISTICHUM - BALD CYPRESS
- ACER RUBRUM - RED MAPLE
- PINUS ELLIOTTII - SLASH PINE
- PHOENIX DACTYL YPORA - MEDJOOUL - MEDJOOUL DATE PALM
- X BUTIAGRUS NABOWANDZII - MULE PALM
- BULBINE FRUTESCENS - BULBINE
- SERENOA REPENS SILVER - SILVER SAW PALMETTO
- JUNIPERUS CHINENSIS PARSONSII - PARSONS JUNIPER
- ARACHIS GUABRATA - PERENNIAL PEANUT
- SABAL PALMETTO - CABBAGE PALM
- LIVISTONA CHINENSIS - CHINESE FAN PALM

LOCATION KEY

SCALE: 1" = 1,000'-0"

DATE		REVISIONS		STATE OF FLORIDA	
DESCRIPTION		DATE		DEPARTMENT OF TRANSPORTATION	
DESCRIPTION		DATE		COUNTY	
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(Typical Section)

LANDSCAPE SOIL WORK

SUMMARY OF PALM PLACEMENT

PALM	STATION	NORTH	SOUTH	PALM	STATION	NORTH	SOUTH
1	41 + 91.50	96'-10"		20	47 + 70.50		96'-3"
2	42 + 18.50	98'-3"		21	47 + 76.00		90'-11"
3	42 + 45.50	100'-1"		22	47 + 82.00		86'-11"
4	47 + 72.50	102'-3"		23	47 + 90.25		84'-8"
5	42 + 99.50	104'-9"		24	47 + 98.75		83'-10"
6	43 + 26.50	107'-7"		25	47 + 77.00		97'-3"
7	43 + 24.00		1'-8"	26	47 + 84.50		99'-8"
8	43 + 49.25		4'-10"	27	47 + 92.25		96'-6"
9	43 + 72.75	1'-9"		28	51 + 86.50		86'-11"
10	43 + 97.00		7'-5"	29	51 + 92.25		91'-10"
11	41 + 68.75		105'-10"	30	51 + 99.25		92'-8"
12	41 + 94.75		106'-4"	31	52 + 4.50		96'-7"
13	42 + 20.75		106'-10"	32	52 + 12.25		102'-11"
14	42 + 46.75		107'-6"	33	51 + 89.50		98'-10"
15	42 + 72.75		108'-0"	34	52 + 47.25		101'-5"
16	54 + 82.50	0'-8"					
17	55 + 5.80	6'-0"					
18	55 + 29.20		0'-8"				
19	55 + 54.25	2'-7"					

PROJECT NOTE:
 1. IN ADDITION TO SPECIFICATIONS 386-4.3, THE CONTRACTOR SHALL HAVE THE SPECIFIED PALM LOCATIONS LISTED ABOVE SURVEYED & STAKED PRIOR TO INSTALL. THE CEI MUST BE PRESENT DURING STAKING TO APPROVE THE LOCATIONS. THE CONTRACTOR SHALL VERIFY THE EXISTING UTILITY LOCATIONS AND SETBACKS. THE CONTRACTOR SHALL VERIFY THE EXISTING UTILITY LOCATIONS AND ADJUST FINAL LOCATIONS AS DIRECTED BY THE LANDSCAPE ARCHITECT.
 2. STATION REPRESENTS THE LOCATION ALONG THE CENTERLINE OF THE BASELINE SURVEY OF VIENA BOULEVARD.

- PLANTING NOTES (in addition to Standard Plan Index 580-001)
- The Contractor shall not install plant material between mid-bounce through the trunk flare and the trunk base.
 - Construct a 3" deep layer of mulch around the trunk flare and around the base of shrub. Never pile mulch against the tree trunk.
 - Apply 3" deep layer of mulch solidly around ground cover except perennial palm. Perennial Palm shall be planted into the existing soil and no mulch shall be applied to the ground cover.
 - Install all bracing & staking within the tree & palm match rings to avoid mower damage to the tree trunk.

DATE	DESCRIPTION	REVISIONS	DATE	DESCRIPTION
SUSAN HALL LANDSCAPE ARCHITECTURE, INC. 4425 CROOKED MILE ROAD MERRITT ISLAND, FL 32952 PH: 321-449-0750 SUSAN JELLISSON HALL, R.L.A. FL LICENSE NUMBER 853				STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION ROAD NO. SR 9 COUNTY BREVARD FINANCIAL PROJECT ID 428238-2-58-01
LANDSCAPE DETAILS				SHEET NO. 16

TABULATION OF QUANTITIES / PLANT SCHEDULE

PAY ITEM NO.	PAY SIZE	BOTANICAL NAME	COMMON NAME	INSTALLED SIZE	SPECIFICATIONS	SPACING	UNIT	SHEET NUMBERS										TOTAL QUANTITY	
								#5	#7	#8	#9	#10	#11	#12	#13	#14	#15		
580-1-2	LARGE	<i>Acer rubrum</i>	Red Maple Tree	65 gal	14" Ht. x 5'5" Spd.; 3" Cal. Min., Type A Soil	As shown	EA	7	1	14	8							8	
580-1-2		<i>Livistona chinensis</i>	Chinese Fan Palm	20 gal	9' Overall Height x 4'5" Spd., Type A Soil	As shown	EA	2										22	
580-1-2		<i>Phoenix dactylofera 'Medjool'</i>	Medjool Date Palm	12 CT/FG	12' Clear Trunk Ht., Female, Type A Soil	As shown	EA	2										4	
580-1-2		<i>Phoenix dactylofera 'Medjool'</i>	Medjool Date Palm	18 CT/FG	18' Clear Trunk Ht., Female, Type A Soil	As shown	EA	8										10	
580-1-2		<i>Phoenix dactylofera 'Medjool'</i>	Medjool Date Palm	22 CT/FG	22' Clear Trunk Ht., Female, Type A Soil	As shown	EA	5										6	
580-1-2		<i>Petalotermis dubium</i>	Yellow Poinciana	FG	18'-20' Ht. x 9'-10' Spd., Type A Soil	As shown	EA	1	2	14	18	9	8					30	
580-1-2		<i>Pinus elliotii</i>	Slash Pine	15/FG	15' Ht. x 5' Spd.; 4" Cal., Type A Soil	As shown	EA	11	8	3	6							19	
580-1-2		<i>Sabal palmetto</i>	Cabbage Palm	FG	See Plan for 12'-22' Varied Clear Trunk Heights, Type A Soil	As shown	EA	3	1	3	6							23	
580-1-2		<i>Quercus virginiana</i>	Live Oak	100 gal	20' Ht. x 8' Spd.; 4" Cal., Type A Soil	As shown	EA	2										14	
580-1-2		<i>Quercus virginiana</i>	Live Oak	200 gal	Type A Soil	As shown	EA	12										75	
580-1-2		<i>Taxodium distichum</i>	Bald Cypress	100 gal	16'-18" Ht. x 5'-6" Spd.; 4" Cal., Type A Soil	As shown	EA	2										14	
580-1-2		<i>Sonneratia speciosa 'Silver'</i>	Silver Star Palmetto	7 gal	16" Ht. x 16" Spd., Type A Soil	36" o.c.	EA											100	
580-1-2		<i>x Badiogras nabommandi</i>	Mule Palm	15/FG	4' Clear trunk, 15' Overall Height; ANGLE CUT TRUNKS; Tie up for transport only. Untie heads after planting, Type A Soil	As shown	EA		10	7		10	13	10	16			86	

PAY ITEM NO.	PAY SIZE	BOTANICAL NAME	COMMON NAME	INSTALLED SIZE	SPECIFICATIONS	SPACING	UNIT	SHEET NUMBERS										TOTAL QUANTITY	
								#6	#7	#8	#9	#10	#11	#12	#13	#14	#15		
580-1-1	SMALL	<i>Arachis glabrata</i>	Perennial Peanut	1 gal.	8" Spd., Type B Soil	5' o.c.	EA	475	400	975								1850	
580-1-1		<i>Bulbine frutescens</i>	Bulbine	1 gal.	8" Ht. x 8" Spd., Type A Soil	18" o.c.	EA	120		120								240	
580-1-1		<i>Juniperus chinensis 'Parsonii'</i>	Parson's Juniper	3 gal.	12" Ht. x 16" Spd., Type A Soil	30" o.c.	EA	260		310								570	

101-1			Mobilization				LS											1	
102-1			Maintenance of Traffic				LS											1	
110-1-1			Cleaning & Gubbing				LS											1	
581-1			Establishment Period				LS											1	

PAY ITEM NOTES: THE QUANTITIES PROVIDED ONLY FOR THE PURPOSE OF DESCRIBING THE WORK TO BE PERFORMED. PAY ITEM DESCRIPTIONS ARE FOUND IN THE DEPARTMENT'S BASIS OF ESTIMATES MANUAL.

- PAY ITEM NUMBER: 580-1-1**
- INCLUDES: TYPE A AND TYPE B SOIL AMENDMENT WHERE NOTED IN THE PLANT LIST.
 - FERTILIZER: TREE & SHRUB 8-10-10 GRANULAR SLOW RELEASE (FOR SHRUBS & GROUNDCOVER)
 - SULFUR AMENDMENT
 - PRE-EMERGENT HERBICIDE
 - MYCORRHIZAL FUNGAL INOCULANT W/ AGRICULTURAL GRADE PLANTING GEL
 - MULCH
 - ESTABLISHMENT PERIOD. (SEE PAY ITEM #581-1)

- PAY ITEM NUMBER: 580-1-2**
- INCLUDES: TYPE A AND TYPE B SOIL AMENDMENT WHERE NOTED IN THE PLANT LIST.
 - TYPE B SOIL AMENDMENT
 - PLANTING OF SOIL MIX (70% MUCK / 30% MULCH)
 - FERTILIZER: TREE & SHRUB 8-10-10 GRANULAR SLOW RELEASE (FOR TREES)
 - FERTILIZER: 8-2-12 W/AMG + MICRONUTRIENTS (FOR PALMS)
 - SULFUR AMENDMENT
 - PRE-EMERGENT HERBICIDE
 - MYCORRHIZAL FUNGAL INOCULANT W/ AGRICULTURAL GRADE PLANTING GEL
 - TYPE B PALM INSTALLATION SHALL INCLUDE BRACING
 - MULCH BONDING LIQUID (APPLY PER MANUFACTURER RECOMMENDATIONS)
 - EXCLUDES: ESTABLISHMENT PERIOD. (SEE PAY ITEM #581-1)

ABBREVIATIONS	
CAL	CALIPER
CT	CENT
CY	CUBIC YARD
EA	EACH
EA	EXISTING
FG	FULL GROUND
FTB	FULL TO BASE
G	GALLON
GAL	GALON
GP	GRAY WOOD
HT	HIGH
LT	LIMITED ACCESS RIGHT
LF	LINEAR FOOT
MT	MULTI TRUNK
OC	ON CENTER
PLG	PLANTING
SF	SQUARE FEET
SPD	SPREAD
TOP	TOP OF BANK
200	200'S

LANDSCAPE SOIL KEY:
 TO REMOVE EXISTING MATERIAL AND SCARIFY TO 24" DEPTH. BACKFILL WITH PLANTING SOIL MIX TO CREATE AMENDED, DECOMPACTED SOIL.
 TYPE B AMENDMENT
 TO REMOVE EXISTING SOIL WITH POST HOLE DIGGER, SCARIFY TO 8" DEPTH. BACKFILL WITH PLANTING SOIL MIX TO CREATE AMENDED, DECOMPACTED SOIL.

DATE	DESCRIPTION	REVISIONS

STATE OF FLORIDA		DEPARTMENT OF TRANSPORTATION	
ROAD NO.	COUNTY	FINANCIAL PROJECT ID	
SR 9	BREVARD	428238-2-58-01	

TABULATION OF QUANTITIES

SHEET NO. 17

SUSAN HALL LANDSCAPE ARCHITECTURE, INC.
 428238-2-58-01
 428238-2-58-01
 PH: 321-489-0790
 SUSAN JELLISSON HALL, R.L.A.
 FL LICENSE NUMBER 853



Purchasing Services
2725 Judge Fran Jamieson Way
Building C, Room 303
Viera, Florida 32940

Viera Boulevard and Interstate 95 Landscape Project

B-2-20-46

DATE: May 22, 2020

Addendum 2

TO ALL PROSPECTIVE BIDDERS

This is an Addendum to and shall be considered as part of the original bid package for the above-mentioned bid. Please acknowledge receipt of Addendum 2 in space provided on Price Sheet. Bidders are requested to acknowledge receipt of this addendum with their bid.

ADDITIONAL INFORMATION:

Please note that the electronic price sheet in Excel format was not included in the original Invitation to Bid. Please see Addendum 2, Attachment 2A: Electronic Price Sheet which is attached to this Addendum.

Please note that the bid opening date and time has changed and is now Friday, May 29, 2020 at 2:00 PM.

All other terms and conditions remain unchanged.

Sincerely,

A handwritten signature in cursive script that reads 'Steven A. Darling, Jr. / SW'.

Steven A. Darling, Jr.
Director, Central Services

cc: file

Public Works Department

END OF ADDENDUM 2

Attachment 2A

VIERA BOULEVARD AND I-95 LANDSCAPE

BID FORM

Item Number	Description	Unit	Quantity	Written Unit Cost	Unit Cost	Extended Cost
101- 1-	MOBILIZATION	Lump Sum	1			\$ -
102- 1-	MAINTENANCE OF TRAFFIC	Lump Sum	1			\$ -
110- 1- 1	CLEARING & GRUBBING	Lump Sum	1			\$ -
580-1-1	LANDSCAPE COMPLETE - SMALL PLANTS	Lump Sum	1			\$ -
580-1-2	LANDSCAPE COMPLETE - LARGE PLANTS	Lump Sum	1			\$ -
581-1	ESTABLISHMENT PERIOD	Lump Sum	1			\$ -
Total Bid						\$ -

VENDOR NAME _____
 PRINTED SIGNATURE _____
 AUTHORIZED SIGNATURE _____
 PHONE # _____ FAX# _____ DATE _____
 EMAIL ADDRESS _____

Electronic Bid Form may be completed electronically on Excel spreadsheet. Electronically completed spreadsheet should be saved on CD and included with bid submittal. Bidders must also print out a hard copy of the completed Bid Form, sign where indicated, and submit with bid. DO NOT MODIFY OR RE-ISSUE THE BID FORM. USE THE BID FORM PROVIDED.

NON-COLLUSION AFFIDAVIT

State of Florida)

ss

County of miami Dade)

Alberto Arzozza, being duly sworn, deposes and says that:

- (1) He is President of Arazozza Brothers Corporation, the Bidder that has submitted the attached Bid;
- (2) He is fully informed respecting the preparation and contents of the attached Bid and of all pertinent circumstances respecting such bid;
- (3) Such Bid is genuine and is not a collusive or sham bid;
- (4) Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly with any other Bidder, firm or person to submit a collusive or sham bid in connection with the contract for which the attached bid has been submitted or to refrain from proposing in connection with such contract, or has in any manner, directly or indirectly, sought by contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Bidder, firm or person to fix the price or prices in the attached bid or of any other Bidder, or to fix any overhead, profit or cost element of the bid price or the bid price of any other Bidder, or to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the Board of County Commissioners of Brevard County, Florida, or any person interested in the contract; and
- (5) The price or prices quoted in the attached Bid are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Bidder or any of his agents, representatives, owners, employees, or parties of interest, including affiant.

(Signature)

President

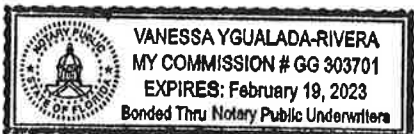
(Title)

Subscribed and sworn to before me this 29th day of may, 2020.

Alberto Arzozza is personally known to me and/or produced identification _____ (type).

Notary Public

My Commission expires 02/19/2023 Commission # GG303701



PUBLIC ENTITY CRIME AFFIDAVIT

Section 287.133(3)(a), Florida Statutes, on Public Entity Crimes:

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid/quote/proposal on a contract to provide goods or services to a public entity, may not submit a bid/quote/proposal on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids/quotes/proposals on leases of rental property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

Acknowledged: _____



Date: _____

05/29/2000

CONTRACTOR AFFIDAVIT REGARDING SCRUTINIZED COMPANY LIST

Awarded Contractor shall certify that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, F.S. if the Contract is for more than \$1,000,000 the Contractor further certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, F.S.

For Contracts of any amount, if the County determines the Contractor submitted a false certification under Section 287.135(5) of the Florida Statutes, or if the Contractor has been placed on the Scrutinized Companies that Boycott Israel List, or is engaged in a boycott of Israel, the County shall either terminate the Contract after it has given the Contractor notice and an opportunity to demonstrate the County's determination of false certification was in error pursuant to Section 287.135(5)(a) of the Florida Statutes, or on a case-by-case basis the County may choose to maintain the Contract if the conditions of Section 287.135(4) of the Florida Statutes are met.

For Contracts \$1,000,000 and greater, if the County determines the Contractor submitted a false certification under Section 287.135(5) of the Florida Statutes, or if the Contractor has been placed on the Scrutinized Companies with Activities in the Sudan List, or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, the County shall either terminate the Contract after it has given the Contractor notice and an opportunity to demonstrate the County's determination of false certification was in error pursuant to Section 287.135(5)(a) of the Florida Statutes, or on a case-by-case basis the County may choose to maintain the Contract if the conditions of Section 287.135(4) of the Florida Statutes are met.

STATE OF FLORIDA

COUNTY OF Miami-Dade

BEFORE ME, the undersigned authority, personally appeared Alberdo Arazoza, who, being by me first duly sworn, made the following statement:

1. The Business address of Arazoza Brothers Corporation
(name of contractor) is 15901 SW 24th St. Homestead, FL 33031
2. My relationship to Arazoza Brothers Corporation (name of contractor) is President (relationship such as sole proprietor, partner, president, vice president).

3. I understand that "Boycott of Israel" has the same meaning as defined in §215.4725, Florida Statutes, and means refusing to deal, terminating business activities, or taking other actions to limit commercial relations with Israel, or persons or entities doing business in Israel or in Israeli-controlled territories, in a discriminatory manner. A statement by a company that it is participating in a boycott of Israel, or that it has initiated a boycott in response to a request for a boycott of Israel or in compliance with, or in furtherance of, calls for a boycott of Israel, may be considered by the State Board of Administration to be evidence that a company is participating in a boycott of Israel. The term does not include restrictive trade practices or boycotts fostered or imposed by foreign countries against Israel.

4. I understand that "business operations" means, for purposes specifically related to Cuba or Syria, engaging in commerce in any form in Cuba or Syria, including, but not limited to, acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, military equipment, or any other apparatus of business or commerce.

5. Arazoza Brothers Corporation (name of the contractor) is not on the Scrutinized Companies that Boycott Israel List, created pursuant to s. 215.4725, Florida Statutes, or is engaged in a boycott of Israel.

6. Arazoza Brothers Corporation (name of the contractor) is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to s. 215.473, Florida Statutes.


7. Arazoza Brothers Corporation (name of the contractor) is not engaged in business operations in Cuba or Syria.



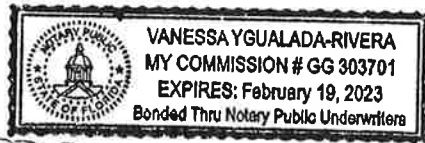
Signature

Sworn to and subscribed before me in the state and county first mentioned above on the 29th day of may, 2020.

(AFFIX SEAL or STAMP)



Notary Public
My commission expires: 02/19/2023



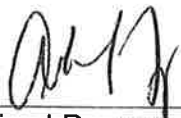
DRUG-FREE WORKPLACE CERTIFICATION

The Contractor certifies that it will provide a drug-free workplace by:

- (1) Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
- (2) Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
- (3) Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection (1).
- (4) In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than 5 days after such conviction.
- (5) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community by, any employee who is so convicted.
- (6) Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign the statement, I certify that this firm complies with the above requirements.

Arazoza Brothers Corporation
Business Name

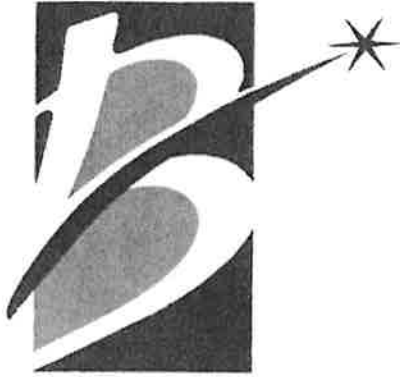

Authorized Representative's Signature

Alberto Arazoza, President
Name and Title

Bid # B-2-20-416
Viera Blvd. + I-95 Landscape
Bid Number and Name

05/29/2020
Date

BOARD POLICY-28



POLICY

**TITLE: Pre-Qualification of Construction Bidders
Prior To Award**

NUMBER: BCC-28
CANCELS October 08, 2013
APPROVED: December 19, 2017
ORIGINATOR: Public Works/Facilities
REVIEW: December 19, 2020

I. OBJECTIVE

To delineate and define the process for pre-qualifying bidders on a project by project basis, or establish a process for prequalifying prospective bidders on a quarterly or annual basis for a group of specific projects, prior to award by the Board of County Commissioners in order to evaluate a Contractor's and/or Subcontractor's eligibility for future Brevard County projects.

This Policy requires the Contractor and/or Subcontractor to submit documents which will provide evidence of adequate project experience, quality workmanship, adherence to project schedule, financial soundness, depth of corporate commitment, bid bond, prospective payment and performance bond rating in the surety market, safety performance, and any other pertinent data obtained from reference checks that is determined by staff to be a measure of the Contractor's/Subcontractor's qualifications.

II. REFERENCES

- A. Brevard County Policy BCC-25, Procurement Policy.
- B. AIA Document A305, Contractor's Qualification Statement.
- C. Brevard County Administrative Order AO-45, Post Project Contractor/Subcontractor Evaluation Form.
- D. Ordinance 98-37, Pre-Qualification of Construction Bidders Prior to Award.

III. DIRECTIVES

- A. The following pre-qualification information of the apparent low bidders/contractor will be utilized for all construction projects exceeding \$50,000.00:
 - 1. Contractor's Qualification Statement – AIA Document A305, most recent Edition.
 - 2. Most current Financial Statement (less than one (1) year).
 - 3. Resumes of Contractor/Subcontractor's key personnel down, including Project Manager and Superintendent level.
 - 4. The Bid Bond, Public Entity Crime Affidavit and Non-Collusion Affidavit (submitted with the Bid) will be reviewed and verified.

5. The Vendor Affidavit Regarding Scrutinized Company List for services of \$1 million or more will be verified.
 6. List of subcontractors and suppliers and items of work to be performed by the Contractor's workforce.
 7. Contractor's Qualification Statement – AIA Document A305, most recent Edition for subcontractor's determined by staff and identified in the bidding documents to be critical to the success of the project. Key subcontractors and their qualifications are to be identified in the bid documents.
 8. Any other pertinent qualifications, evaluations from past projects, data or information determined by staff to be critical to the success of the project.
- B. The apparent low bidders, after the formal bid opening, will be required to submit the information above within five (5) days for review and approval by the appropriate Review and Qualification Committee listed below. If the apparent low bidder cannot provide adequate documents for review, or the submitted documents give indications of a non-stable or unqualified company, the Contractor will be recommended by the Review and Qualification Committee for bid rejection and the apparent second low bidder will be contacted and afforded the previous mentioned five (5) days to submit their pre-qualifications documents. This process would continue until a most responsive, responsible bidder is established.
- C. The following Review and Qualification Committees and committee members (or designees) are hereby established:
1. Public Works Department Projects (horizontal construction projects)
Public Works Department Director
Traffic Operations Manager
Construction Engineer
 2. Utility Services or Natural Resources Management Projects
Assistant County Manager for Development & Public Services Group
Utility Services Department Director
Natural Resources Management Department Director
 3. Solid Waste Projects
Assistant County Manager for Development & Public Services Group
Solid Waste Management Department Director
Utility Services Department Director
 4. General Construction Projects (any Department relying on Facilities to oversee their projects including Parks and Recreation referendum projects, special districts, agencies or other County project not otherwise encompassed herein)
Public Works Department Director (for Facilities CIP projects)
Facilities Building & Operations Manager (for Non-Facilities CIP projects)
Facilities Construction Manager
User Agency Department Director
 5. Landscaping Projects
Public Works Department Director
Parks and Recreation Department Director

Public Works Department - Landscaping Operations Manager

- 6. Housing & Human Services Department
Public Works Department Director
Central Services Department Director
User Agency Department Director

IV. RESERVATION OF AUTHORITY

The authority to issue and/or revise this Policy is reserved to the Board of County Commissioners.

Attest:



Scott Ellis, Clerk of Court



Rita Pritchett, Chair
Board of County Commissioners
Brevard County, Florida

As approved by the Board: 12/19/17

**SECTION 4
BID BOND**

Know all men by these presents, that we, Arazoza Brothers Corporation of Miami, Florida, hereafter called the Principal, and Great Midwest Insurance Company, (Surety), a Corporation organized and existing under the laws of the State of Texas, and authorized to transact business in the State of Florida, as Surety, hereinafter called Surety, are held and firmly bound unto the Owner, Brevard County, Florida, hereinafter called Oblige, in the penal sum of 5 percent of the amount of bid, good and lawful money of the United States of America, for the payment of which the Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents. The condition of this obligation is such, that,

Whereas, the Principal has submitted a Bid to the Oblige on a contract for Viera Boulevard and Interchange 95 Landscape Project.

Now therefore, if the Oblige shall accept the Bid of the Principal and the Principal shall enter into a contract with the Oblige in accordance with the terms of such Bid and give such bond or bonds as may be specified in the Bidding or Contract Documents with good, qualified and sufficient surety for the faithful performance of such construction for the prompt payment of labor and materials furnished in the prosecution thereof, then this obligation shall be null and void; otherwise this Bid is to remain in full force and effect for the payment to the Oblige of the stated penal sum hereof.

In witness whereof, we have hereunto set our signatures and seals this 27th day of May, A.D., 2020, all pursuant to due authorization.

Principal Arazoza Brothers Corporation

By: [Signature]

(Seal)

Surety Great Midwest Insurance Company

By: [Signature]

Charles J. Nielson, Attorney-in-fact

Attorney-In-Fact in accordance with the Attached Power of Attorney

(Seal)

STATE OF FLORIDA
COUNTY OF Miami-Dade

I, Gicelle Pajon, a Notary Public in and for the State and County aforesaid, do hereby certify that Charles J. Nielson and [Signature], whose names are signed to the foregoing bond, this day personally appeared before me in my State and County aforesaid and acknowledged the same. Given under my hand and seal this 27th day of May, 2020.

(Notary Public) [Signature]

My commission Expires: January 4, 2021





KNOW ALL MEN BY THESE PRESENTS: That NGM Insurance Company, a Florida corporation having its principal office in the City of Jacksonville, State of Florida, pursuant to Article IV, Section 2 of the By-Laws of said Company, to wit:

"Article IV, Section 2. The board of directors, the president, any vice president, secretary, or the treasurer shall have the power and authority to appoint attorneys-in-fact and to authorize them to execute on behalf of the company and affix the seal of the company thereto, bonds, recognizances, contracts of indemnity or writings obligatory in the nature of a bond, recognizance or conditional undertaking and to remove any such attorneys-in-fact at any time and revoke the power and authority given to them. "

does hereby make, constitute and appoint **Jarrett Merlucci, Charles David Nielson, Joseph Penichet Nielson, David Russell Hoover, Charles Jackson Nielson, Ian A Nipper, Brett Rosenhaus**-----

its true and lawful Attorneys-in-fact, to make, execute, seal and deliver for and on its behalf, and as its act and deed, bonds, undertakings, recognizances, contracts of indemnity, or other writings obligatory in nature of a bond subject to the following limitation:

- 1. No one bond to exceed Five Million Dollars (\$5,000,000.00)

and to bind NGM Insurance Company thereby as fully and to the same extent as if such instruments were signed by the duly authorized officers of NGM Insurance Company; the acts of said Attorney are hereby ratified and confirmed.

This power of attorney is signed and sealed by facsimile under and by the authority of the following resolution adopted by the Directors of NGM Insurance Company at a meeting duly called and held on the 2nd day of December 1977.

Voted: That the signature of any officer authorized by the By-Laws and the company seal may be affixed by facsimile to any power of attorney or special power of attorney or certification of either given for the execution of any bond, undertaking, recognizance or other written obligation in the nature thereof; such signature and seal, when so used being hereby adopted by the company as the original signature of such office and the original seal of the company, to be valid and binding upon the company with the same force and effect as though manually affixed.

IN WITNESS WHEREOF, NGM Insurance Company has caused these presents to be signed by its Vice President, General Counsel and Secretary and its corporate seal to be hereto affixed this 7th day of January, 2020.

NGM INSURANCE COMPANY By:

Kimberly K. Law

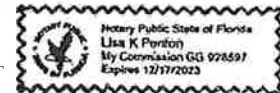
Kimberly K. Law
Vice President, General
Counsel and Secretary



State of Florida,
County of Duval.

On this 7th day of January, 2020, before the subscriber a Notary Public of State of Florida in and for the County of Duval duly commissioned and qualified, came Kimberly K. Law of NGM Insurance Company, to me personally known to be the officer described herein, and who executed the preceding instrument, and she acknowledged the execution of same, and being by me fully sworn, deposed and said that she is an officer of said Company, aforesaid: that the seal affixed to the preceding instrument is the corporate seal of said Company, and the said corporate seal and her signature as officer were duly affixed and subscribed to the said instrument by the authority and direction of the said Company; that Article IV, Section 2 of the By-Laws of said Company is now in force. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at Jacksonville, Florida this 7th day of January, 2020.

Lisa K. Pentz



I, Nancy Giordano-Ramos, Vice President of NGM Insurance Company, do hereby certify that the above and foregoing is a true and correct copy of a Power of Attorney executed by said Company which is still in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Company at Jacksonville, Florida this 27th day of May, 2020.

Nancy Giordano-Ramos

WARNING: Any unauthorized reproduction or alteration of this document is prohibited.
TO CONFIRM VALIDITY of the attached bond please call 1-800-225-5646.
TO SUBMIT A CLAIM: Send all correspondence to 55 West Street, Keene, NH 03431 Attn: Bond Claims.



SECTION 5 CONTRACT

THIS CONTRACT, made and effective this 1st day of July, 2020, A.D., by and between Brevard County, Florida, party of the first part (hereinafter sometimes called the "Owner"), and Arazoza Brothers Corporation, party of the second part (hereinafter sometimes called the "Contractor").

WITNESSETH: That the parties hereto, for the consideration hereinafter set forth, mutually agree as follows:

1. SCOPE OF THE WORK

- 1.1 The Contractor shall furnish all labor, materials, equipment, machinery, tools, apparatus, transportation to perform all of the work shown on the Drawings, Plans, and Specifications prepared by Susan Hall, ASLA Florida License #853 (Landscape Architect), entitled as follows:

Viera Boulevard and Interstate 95 Landscape Project

2. THE CONTRACT SUM

- 2.1 The Owner shall pay to the Contractor for the faithful and proper performance of the Contract, in lawful money of the United States, and subject to additions and deductions as provided in the Contract Documents.
- 2.2 Based upon the price shown in the Proposal submitted to the Owner by the Contractor, a copy of said Proposal being a part of these Contract Documents, the aggregate amount of this Contract is the sum of Five Hundred Eighty-One Thousand and One Hundred Thirty dollars; \$581,130.00.

3. COMMENCEMENT AND COMPLETION OF WORK

- 3.1 The Contractor shall commence work within ten calendar days after issuance of the Notice to Proceed by the Owner.
- 3.2 The Work, or portions thereof, shall be completed within the time set forth below. Liquidated Damages shall be imposed in the amount as set forth below for the following events:

Article	Description	Unit
Definitions	Substantial Completion	107 calendar days from NTP
	Liquidated Damages for each calendar day after time specified for Substantial Completion	\$1,655.00 per calendar day
Definitions	Final Completion (Landscape Installation)	30 calendar days from Substantial Completion
Definitions	Final Completion (Establishment Period)	2 calendar years from Final Completion (Landscape Installation)

4. CONTRACTOR'S ACCEPTANCE OF CONDITIONS

- 4.1 The Contractor hereby agrees that the surface and subsurface of the site has been carefully examined. The Contractor acknowledges sufficient test holes have been made, or other subsurface investigations made, and is satisfied that the project site is a correct and suitable one for this work, including all utility areas, and assumes full responsibility therefore.

The provisions of this Contract shall control any inconsistent provisions contained in the Specifications. All Drawings, Plans, and Specifications have been read and carefully considered by the Contractor, who understands and agrees to their sufficiency for the work to be done. It is expressly agreed that under no circumstances, conditions or situations, shall this Contract be more strongly construed against the Owner than against the Contractor and the Surety.

- 4.2 Any ambiguity or uncertainty in the Drawings, Plans, or Specifications shall be interpreted and construed by the Engineer of Record in writing, and such final determination shall be final and binding upon all parties.
- 4.3 It is distinctly understood and agreed that the passing, approval and acceptance of any part of the work or materials by the Owner, the Engineer of Record, or by any their agents or representatives for compliance with the terms of the Contract Documents covering said work shall not operate as a waiver by the Owner of strict compliance with the terms of this Contract, and/or the Drawings and Specifications covering said work.

The Owner may require the Contractor and the Surety to repair, replace, restore and/or make the work comply strictly, and in all things, with this Contract, and the Plans, Drawings, and Specifications. Any and all of said work and/or materials which within a period of one year from and after the date of the passing, approval, and/or acceptance of any such work or material, are found to be defective or to fail in any way to comply with this Contract or with the Drawings and Specifications. This provision shall not apply to materials or equipment normally expected to deteriorate or wear out and become subject to normal repair and replacement before their condition is discovered. The Contractor shall not be required to do normal maintenance work under the guarantee provisions. Failure on the part of the Contractor and the Surety to immediately repair or replace any such defective materials and workmanship shall entitle the Owner, in the Owner's sole discretion, to replace or repair the same and, after written notice, recover the reasonable cost of such replacement and repair from the Contractor and the Surety, who shall in any event be jointly and severally liable to the Owner for all damage, loss and expense caused to the Owner by reason of the Contractor's breach of this Contract and the Contractor's failure to comply strictly and in all things with this Contract and with the Drawings and Specifications.

- 4.4 The Contractor hereby agrees that normal local weather conditions have been considered in the establishment of the contract time. The Contractor expressly acknowledges that unfavorable working conditions will exist at the work site as a result of normal local weather.

The Contractor shall take into consideration local weather conditions in planning and scheduling of the work to ensure the completion of the work within the contract time provided. No time extensions will be granted for the Contractor's failure to take into account such weather conditions for the location of the work and for the period of time in which the work is to be accomplished.

- 4.5 The Contractor hereby acknowledges that no funds received pursuant to this Contract may be expended for lobbying the Legislature, the judicial branch, or a state agency.

5. INDEMNIFICATION

- 5.1 The Contractor shall indemnify and hold harmless the Owner and the Engineer of Record and their agents and employees from and against all claims, costs, expenses, including attorney's fees and damages arising out of or resulting from the performance of the work, injury or conduct, want of care or skill, negligence and patent infringement providing that any such claim, damage, loss or expenses (a) is attributable to bodily injury,

sickness, disease or death, or to injury to or destruction of property, including the loss of use resulting therefrom and (b) is caused by any negligent act or omission of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder. The obligation of the Contractor under this Paragraph shall not extend to the liability of the Engineer of Record, the Engineer's agents or employees arising out of errors or omissions in maps, drawings, opinions, reports, surveys, contract modifications, designs or specifications which have been prepared by the Engineer of Record. The Contractor acknowledges receipt of specific consideration for this provision. Pursuant to this provision, the Owner is not requesting indemnity in any way for its own negligence. Nothing contained in this paragraph is intended to nor shall it constitute a waiver of sovereign immunity of the Owner.

6. INSURANCE

6.1 The Contractor shall be required to procure and maintain, at their own expense and without cost to the Owner, the following types of insurance. The policy limits required are to be considered minimum amounts:

- Workers' Compensation and Employers Liability Insurance: Workers Compensation insurance providing statutory benefits as required in the State of Florida. The Contractor shall require any subcontractor, unless such employees are covered by the protection afforded by the Contractor, to provide evidence of this coverage or proof of exemption to the Contractor. Additionally, if the contract requires working on or around a navigable waterway, the Contractor and all subcontractors shall provide evidence of United States Longshoremen's and Harbor Workers (USL&H) coverage and contingent coverage of Jones Act (Marine Employers Liability) in compliance with Federal statutes, or proof of exemption. The Contractor shall be responsible for compliance with these requirements by each subcontractor, vendor or supplier. This coverage must include Employer's Liability with a minimum limit of \$100,000 for each accident, \$100,000 each employee, and \$500,000 policy limit for Disease.
- Comprehensive General Liability Insurance: General Liability Insurance shall be provided and maintained with a combined single limit of \$1,000,000 for each occurrence with the Owner and Engineer of Record named as additional insureds as follows:

Comprehensive General Liability Insurance, including Products and/or Completed Operations, Explosion Hazard, Collapse Hazard and

Underground Property Damage Hazard, Contractual Liability under this contract.

- Comprehensive Auto Liability Insurance: Auto Liability policy with a \$1,000,000 combined single limit for each occurrence covering any auto with the Owner and Engineer of Record named as additional insureds.

6.2 Before commencing work, the Contractor shall file with the Owner certificates of such insurance, acceptable to the Owner. Insurance carriers providing coverage required herein must be licensed or authorized to conduct business in the State of Florida and must possess A.M. Best's Financial Strength Rating of A- Class VIII or better. These certificates shall contain a provision that the coverage afforded under the policies will not be canceled or materially changed until at least thirty days prior written notice has been given to the Owner.

7. CHANGE ORDER

7.1 A written change to the Contract approved by the Owner authorizing an addition, deletion or revision in the work, resulting in an adjustment in the Contract price and/or the Contract time issued after execution of the Contract.

7.2 Change of Contract Time and Claims for Delays

- (a) The contract times (or Milestones) may only be changed by a written Change Order. Any claim for adjustment of the contract time (or Milestones) shall be based on written notice delivered by the party making the claim to the other party promptly (but in no event later than thirty days) after the occurrence of the event giving rise to the claim and stating the general nature of the claim. Notice of the extent of the claim with supporting data, including but not limited to, backup for additional compensation requests for any delays and/or loss of efficiency, shall be delivered within sixty days after such occurrence (unless the Owner allows an additional period of time to ascertain more accurate data in support of the claim) and shall be accompanied by the claimant's written statement that the adjustment claimed is the entire adjustment to which the claimant has reason to believe it is entitled as a result of the occurrence of said event. No claim for an adjustment in the Contract Time (or Milestones) and any related equitable adjustment to the Contract Sum will be valid if not submitted in strict accordance with the requirements of this paragraph. Otherwise, such claims will be deemed to have been waived.

- (b) All time limits stated in the Contract Documents are of the essence of the contract. In other words, time is of the essence as to all applicable provisions related to time.
- (c) Where Contractor is prevented from completing any part of the work within the contract time (or Milestones) due to delay beyond the control of Contractor, the contract time (or Milestones) will be extended in an amount equal to the time lost due to such delay if a claim is made thereof as provided in paragraph 7.2 (a). Delays beyond the control of Contractor shall include, but not be limited to, acts or neglect by Owner, acts or neglect of utility owners or other contractors performing other work, fires, floods, epidemics, abnormal weather conditions or acts of God. Delays attributable to and within the control of a Subcontractor shall be deemed to be delays within the control of Contractor.
- (d) **No Damages for Delay: NO CLAIM FOR DAMAGES OR ANY CLAIM OTHER THAN FOR AN EXTENSION OF TIME SHALL BE MADE OR ASSERTED AGAINST THE OWNER BY REASON OF ANY DELAYS.** The Contractor shall not be entitled to an increase in the Contract Sum or payment or compensation of any kind from the Owner for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration, or inefficiency, arising because of delay, disruption, interference or hindrance from any cause whatsoever, including but not limited to fires, floods, epidemics, abnormal weather conditions, acts of God, acts or neglect by utility owners or other contractors performing other work; however, this provision shall not preclude recovery or damages by the Contractor for hindrances or delays due solely to fraud, bad faith, or active interference on the party of the County or its agents. Otherwise, the Contractor shall be entitled only to extensions of the Contract Time as the sole and exclusive remedy for such resulting delay, in accordance with and to the extent specifically provided above.
- (e) Contract time shall not be extended for rain delays. The Owner may consider granting time extensions as stipulated in Section 8-6.1.1 of Florida Department of Transportation (F.D.O.T.) Specifications for temporary suspension of work due to adverse weather conditions due to catastrophic occurrences.

7.3 Extra Work

- (a) The Contractor shall do all extra work that may be ordered in writing by the Owner arising out of the modification of the

Specifications or Drawings made or approved by the Owner. For this work, the Contractor shall be paid at the rates named in the Contract for work of a similar nature and character. If the extra work be of a class for which no rate is fixed in the Contract, the actual reasonable cost as determined by the Owner, plus fifteen percent of said cost for profit and general expense shall be paid the Contractor. No claim for extra work shall be allowed unless the same was ordered in writing by the Owner, and the claim was presented by the Contractor at the time of the next estimate or pay application is submitted by the Contractor after the work is completed. Otherwise, should the Contractor not timely submit its claim for extra work pursuant to the above requirement, the Contractor voluntarily acknowledges it has waived its rights to such claims for extra work.

- (b) Except as hereinafter provided, all extra work ordered and performed in accordance with the above paragraph will be paid for at the price in the written order for such work. This price (or rate) shall have been approved by the Owner and mutually agreed by the Contractor and the Owner to be suitable compensation for the contemplated extra work. However, if the Contractor fails to agree on an equitable price for any extra work ordered, it shall be performed by using labor, tools, equipment, and materials as may be specified by the Owner and will be paid for in the following manner:
- (1) For all labor, including a foreman in direct charge of the specified operations, the Contractor shall receive a sum equal to the current local rate of wages for every hour that the labor is actually engaged in such work, to which shall be added an amount equal to fifteen percent of such sum, and the total thereof shall be full compensation to the Contractor for general supervision and for furnishing and repairing small tools and ordinary equipment used in doing the extra work. In addition, the Contractor shall be paid the actual wages paid to such labor.
 - (2) For all materials used, the Contractor shall receive the actual cost of such materials, including freight charges, as shown by original receipted bills, to which costs shall be added an amount equal to ten percent thereof.
 - (3) For any special machinery or special equipment, including fuel and lubricants there for, required for the economic performance of extra work, the Owner shall allow the

Contractor a reasonable rental price, to be agreed upon in writing before such work is begun, for every hour that such special machinery or equipment is used on the extra work.

- (c) The compensation herein provided shall be received and accepted by the Contractor as payment in full for all extra work done.
- (d) The Contractor's representative and the Owner's representative shall compare records of extra work done at the end of each day. Such records shall be made in triplicate upon a form provided for such purpose by the Owner and shall be signed by both the representatives referred to herein, one copy being submitted to the Construction Engineering Inspector, a second copy being submitted to the Owner, and the third copy being retained by the Contractor.
- (e) Contractor force account work shall be done in compliance with Article 4-3 of F.D.O.T. Standard Specifications, January 2020 Edition. Contractor shall provide written notification of any differing site conditions within twenty-four hours of becoming aware of such condition.
- (f) Where extra work is performed by a subcontractor, the Contractor is limited to a total of fifteen percent of the subcontractor charges as overhead, profit, insurance, bonding, etc.

8. SUSPENSION OF WORK

- 8.1 Should the Owner be prevented or enjoined from proceeding with work, either before or after the start of construction, by reason of any litigation or other reason beyond the control of the Owner, the Contractor shall not be entitled to make or assert claim for damage by reason of said delay; but time for completion of the work will be extended to such reasonable time as the Owner may determine to compensate for time lost by such delay, with such determination to be set forth in writing.

9. DISPUTE RESOLUTION

- 9.1 Within three days after denial of the Contractor's change order request in an amount, individually or in total, less than the authorized purchasing level approved for the County Manager by the County Commission (currently at \$100,000) the Contractor may submit to the County Manager or designee with experience in the oversight of construction projects for a department or business other than the department responsible for monitoring the disputed request, documentation of the Contractor's position in the dispute or disagreement. The County Manager or designee,

within five days after the receipt of the Contractor's documentation, shall review the request and make a final determination as to whether denial was arbitrary or capricious based upon the sufficiency of the work under the terms of the contract, applicable regulations and relevant construction standards. Based upon the sufficiency and degree of completion, as well as any defects in the work and the amount reasonably required, if any, to correct or repair defective work, the reviewer shall make the final determination as to whether a written change order should be approved by the County Manager.

If the denied request or disputed amount exceeds the County Manager's purchasing authority, the County Manager shall present a report, recommendation and the Contractor's claim and documentation, to the County Commission for a final determination within thirty days after receiving the Contractor's documentation for the claim. The Commission shall make its decision using the standards specified in subparagraph 40.1 above.

- 9.2 Within thirty days after denial of a request for a change order involving 1] an amount in excess of the County Manager's purchasing authority or 2] for the amount the Contractor claims to be due at the time the project is ready for beneficial use or occupation, the Owner may, at the Owner's option in lieu of the procedure specified in subparagraph 9.1, submit the dispute to a mediator with knowledge or experience in construction management, as agreed upon by the Parties. Upon referral to a mediator, the Owner and Contractor shall each pay half the estimated cost of the mediator, up front. Within thirty days after the date of submittal, the mediator, applying the standards set forth in subparagraph 9.1, shall investigate the dispute and submit a written recommendation for disposition of the dispute to the County Manager or designee with the qualifications specified in subparagraph 7.1. Within thirty days after receiving the mediator's recommendation, the County Manager shall submit the recommendation to the County Commission, along with a staff report analyzing the dispute and mediator's recommendation. Based on the standards set forth in subparagraph 9.1 above, the Commission shall decide whether to grant or deny, in whole or in part, the amounts recommended by the mediator. The Commission's decision will be deemed final action on the disputed claim for the purposes of ripening the decision for judicial review. If the mediator recommends that no change order be granted, the contractor shall reimburse the Owner any amounts paid by the Owner to the mediator.
- 9.3 The deadlines for completing the dispute resolution process described in subparagraphs 9.1 and 9.2 may be extended by mutual agreement of the Owner and Contractor.

10. LIQUIDATED DAMAGES

- 10.1 It is mutually agreed that time is of the essence of this Contract and should the Contractor fail to complete the work, or portions thereof, within the specified time, or any authorized extension thereof, there shall be deducted from the compensation otherwise to be paid to the Contractor, and the Owner will retain the amount of liquidated damages stated in Section V, Article 3.2 of the Specifications and Contract Documents, per calendar day elapsing beyond the specified time for completion or any authorized extension thereof, which sum shall represent the actual damages which the Owner will have sustained by failure of the Contractor to complete the work, or portions thereof, within the specified time; it being further agreed that said sum is not a penalty, but is the stipulated amount of damages sustained by the Owner in the event of such default by the Contractor.
- 10.2 Substantial Completion, Final Completion, and any intermediate Milestones are stipulated as fair and reasonable. Such Liquidated Damages shall apply separately to each portion of the Work for which a time for completion is given. Contractor waives any and all challenges and legal defenses to the validity of any Liquidated Damages established in the Contract Documents, including that the Liquidated Damages are void as penalties or are not reasonably related to the actual damages sustained by the Owner as a result of Contractor's untimely performance.
- 10.3 For the purposes of this Article, the day of Final Completion of the work shall be considered a day of delay.

11. PARTIAL AND FINAL PAYMENTS

- 11.1 In accordance with the provisions fully set forth in the General Conditions, and subject to additions and deductions as provided, the Owner shall pay the Contractor as follows:
- (a) The Contractor must provide subcontractor(s) releases from the prior payment draw prior to making the next payment draw, and require Subcontractor Waivers of Rights Against Payment Bond for only the previous pay request. Notwithstanding the foregoing pursuant to section 255.05(11), Florida Statutes, when the Contractor has furnished and recorded the Public Construction Bond (Payment and Performance) and provided the County with a written consent from the Surety regarding the project or payment in question, no such waivers shall be required. The Surety may, in a writing served on the County, revoke its consent or direct that the County withhold a specified amount from a payment, which shall be

effective upon receipt.

- (b) Upon submission by the Contractor of evidence satisfactory to the Owner that all payrolls, material bills and other costs incurred by the Contractor in connection with the construction of the work have been paid in full, and also, after all guarantees that may be required in the specifications have been furnished and are found acceptable by the Owner, final payment on account of this Agreement shall be made within thirty days after Final Acceptance by the Owner.

12. NO WAIVER OF LEGAL RIGHTS

- 12.1 Observation by the Owner, Construction Engineering Inspector, or by any duly authorized representatives, any measurement or report by the Owner, any order by the Owner for the payment of money, any payment for or acceptance of any work or any extension of time or any possession taken by the Owner shall not operate as a waiver of any provision of this Contract, or any power therein preserved to the Owner, or of any right to damages therein provided. Any waiver of any breach of this Contract shall not be held to be a waiver of any other or subsequent breach.
- 12.2 The Owner reserves the right to correct any error that may be discovered in any estimate that may have been paid, and to adjust the same to meet requirements of this Contract. The Owner further reserves the right, should proof of defective work on the part of the Contractor be discovered after the final payment has been made, to claim and recover by process of law, such sums as may be sufficient to correct the error, or make good the defects in the work.
- 12.3 Any waiver of any provision of the Contract Documents shall be specific, shall apply only to the particular item or matter concerned and shall not apply to other similar or dissimilar items or matters.

13. PUBLIC CONSTRUCTION BOND (PAYMENT AND PERFORMANCE)

- 13.1 Within ten days of execution of the Contract, by both parties, the Contractor shall provide to the Owner a copy of the Public Construction Bond (Payment and Performance) that has been officially recorded in the office of the Brevard County Clerk of the Court, and shall provide a copy of same to each and every subcontractor approved by the Owner for the project, and notify them of deadlines to make claims under said bond. The Powers of Attorney must be recorded with the bond. Payment for the recording is incidental to the Contract.
- 13.2 The Public Construction Bond shall name the State of Florida, Department

of Transportation as an additional obligee. All warranties on any product or material used in construction of said project shall be in favor of the State of Florida, Department of Transportation.

14. ADDITIONAL BONDS

14.1 It is further mutually agreed between parties hereto that if, at any time after the execution of this Agreement and the Public Construction Bond hereto attached for its faithful performance, the Owner shall deem the surety or sureties upon such bonds to be unsatisfactory, or if, for any reason, such bond ceases to be adequate to cover the performance of the work, the Contractor shall, at the Contractor's expense, and within three days after the receipt of Notice from the Owner to do so, furnish an additional bond or bonds, in such form and amount, and with such sureties as shall be satisfactory to the Owner. In such event, no further payment to the Contractor shall be deemed due under this Agreement until such new or additional security for the faithful performance of the work shall be furnished in manner and form satisfactory to the Owner.

15. CONTRACT DOCUMENTS

15.1 The Contract Documents, as stated in the Instructions to Bidders and attached hereto, are as fully a part of this Contract as if herein repeated. An enumeration of the Drawings accompanying these Contract Documents follows:

Index of Roadway Plans

<u>Sheet No.</u>	<u>Sheet Description</u>
1	Key Sheet
2	Summary of Pay Items
3	General Notes
4	Project Layout
5	Selective Clearing & Grubbing Plan
6-15	Landscape Plans
16	Landscape Details
17	Tabulation of Quantities

16. UNAUTHORIZED ALIEN WORKERS / E-VERIFY

16.1 The County will not intentionally award publicly funded contracts to any Contractor who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324a(e)(Section 274(e) of the Immigration and Nationality Act (INA). The County shall consider the employment by the Contractor of

unauthorized aliens a violation of Section 274(e) of the INA. Such violation by the recipient of the employment provisions contained in Section 274(e) of the INA shall be grounds for unilateral cancellation of this contract by the County.

- 16.2 The Contractor shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Contractor during the term of the contract; and shall expressly require any subcontractors performing work or providing services pursuant to this contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.

17. SCRUTINIZED COMPANIES

- 17.1 For Contracts of any amount, if the Owner determines the Contractor submitted a false certification, Vendor Affidavit Regarding Scrutinized Company List, under Section 287.135(5) of the Florida Statutes, or if the Contractor has been placed on the Scrutinized Companies that Boycott Israel List, or is engaged in a boycott of Israel, the Owner shall either terminate the Contract after it has given the Contractor notice and an opportunity to demonstrate the Owner's determination of false certification was in error pursuant to Section 287.135(5)(a) of the Florida Statutes, or maintain the Contract if the conditions of Section 287.135(4) of the Florida Statutes are met. For Contracts \$1,000,000 and greater, if the Owner determines the Contractor submitted a false certification under Section 287.135(5) of the Florida Statutes, or if the Contractor has been placed on the Scrutinized Companies with Activities in the Sudan List, or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, the Owner shall either terminate the Contract after it has given the Contractor notice and an opportunity to demonstrate the Owner's determination of false certification was in error pursuant to Section 287.135(5)(a) of the Florida Statutes, or maintain the Contract if the conditions of Section 287.135(4) of the Florida Statutes are met.

18. AUDIT RIGHTS

- 18.1 In performance of the Contract, the Contractor shall keep books, records, and accounts of all activities related to the Contract in compliance with generally accepted accounting procedures. All documents, papers, books, records and accounts made or received by the Contractor in conjunction with the Contract and the performance of this Contract shall be open to inspection during regular business hours by an authorized representative of the County. The Contractor shall retain all documents, books and records for a period of five years after termination of this

Contract, unless such records are exempt from section 24(a) if Article I of the State Constitution and Ch. 119, Florida Statutes. All records or documents created by or provided to the Contractor by the County in connection with this Contract are public records subject to Florida Public Records Law, Chapter 119, Florida Statutes. All records stored electronically must be provided to the County in a format compatible with the information technology systems of the County.

The Contractor shall ensure that public records which 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 and following termination of the Contract if the Contractor does not transfer the records to the public agency. In lieu of retaining all public records upon termination of this Contract, the Contractor may transfer, at no cost to the County, all public records in possession of the Contractor. If the Contractor transfers all public records to the County upon termination of the Contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements.

19. PUBLIC RECORDS

- 19.1 Pursuant to Section 119.0701, a request to inspect or copy public records relating to this Contract must be made directly to the County. If the County does not possess the requested records, the County shall immediately notify the Contractor of the request and the Contractor must provide the records to the County or allow the records to be inspected or copied within twenty-four hours (not including weekends and legal holidays) of the request so the County can comply with the requirements of Sections 119.07. The Contractor may also provide a cost estimate to produce the requested documents consistent with the policy set forth in Brevard County Administrative Order AO-47, incorporated herein by this reference. A copy of AO-47 is available upon request from the County's public records custodian designated below.

If the Contractor fails to provide the requested public records to the County within a reasonable time, the Contractor may face civil liability for the reasonable cost of enforcement incurred by the party requesting the records and may be subject to criminal penalties. Sections 119.0701, 119.110. The Contractor's failure to comply with public records requests is considered a material breach of this Contract and grounds for termination.

Should the County face any legal action to enforce inspection or production of the records within the Contractor's possession and control,

The Contractor agrees to indemnify the County for all damages and expenses, including attorney's fees and costs. The Contractor shall hire and compensate attorney(s) to represent the Contractor and County in defending such action. The Contractor shall pay all costs to defend such action and any costs and attorneys fees awarded pursuant to Section 119.12.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 321-617-7202; ROBERT.HENDRICKS@BREVARDFL.GOV; 2725 JUDGE FRAN JAMIESON WAY, SUITE A-201, VIERA, FL 32940

20. INSPECTOR GENERAL

- 20.1 The Contractor agrees to comply with s.20.055(5), Florida Statutes, and to incorporate in all subcontracts the obligation to comply with s.20.055(5), Florida Statutes to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing.

21. FAILURE TO PERFORM WORK

- 21.1 At Owner's option, if the Contractor shall fail to begin the work called for by the Contract within the time specified, or fail to perform the work continuously with sufficient workers and equipment or with sufficient materials to insure the prompt completion of the work within the prescribed time, or shall perform the work unsatisfactorily, or shall neglect or refuse to remove materials or to perform such work as shall be rejected as defective and unsuitable, or shall discontinue the prosecution of the work, or shall become insolvent, or be declared bankrupt, or shall commit any act of bankruptcy or insolvency, or shall make an assignment for the benefit of creditors, or from any other cause whatsoever shall not carry on the work in an acceptable manner, the Owner may give notice in writing to the Contractor and to the Surety of such delay, neglect or default, specifying the conditions pertaining thereto and directing the Contractor to correct the same.
- 21.2 If the Contractor shall not correct such conditions within a period of five calendar days after receipt of such notice, the Owner shall, upon written report reciting the facts of such delay, neglect or default, have full power and authority, without violating the Contract, to take the prosecution of the work out of the hands of the Contractor, to appropriate or use any or all

materials and equipment on the grounds as may be suitable and acceptable, to enter into an agreement with another Contractor for the completion of the work or to use such other methods as, in the opinion of the Owner, shall be required for the completion of the work in an acceptable manner.

- 21.3 All costs and charges incurred by the Owner together with the costs of completing the work under the Contract, shall be deducted from any monies due or which may become due. In the event that the expense so incurred by the Owner shall be less than the sum which would have been payable under the Contract if the work had been completed by the Contractor, the Contractor shall be entitled to receive the difference; in case such expense shall exceed the sum which would have been payable under the Contract, the Contractor and the Surety shall be liable and shall pay to the Owner the amount of such excess.

22. ASSIGNMENT OF CONTRACT

- 22.1 No assignment by the Contractor of this Contract or of any part thereof, or any monies due, or to become due thereunder shall be made without the prior approval of the Owner, which approval will be given only after the Surety on the Performance and Payment Bonds has informed the Owner in writing that it has no objection to such assignment being made.
- 22.2 In the event that the Contractor shall undertake to assign all or any part of any monies due or to become due under this Contract, the instrument of assignment shall contain a provision substantially to the effect that it is agreed that the rights of the assignee in and to any of such monies shall be subject to the prior liens of all persons for services rendered or materials supplied for the performance of all work embraced by this Contract.

23. TERMINATION

- 23.1 In the event Owner does not choose the notice and possible cure option described in Article 9 above, the performance of work under this Contract may be terminated by the Owner in accordance with this clause in whole, or from time to time in part, whenever the Owner shall determine that such termination is necessary. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which performance of work under the contract is terminated, and the date upon which such termination becomes effective.
- 23.2 After receipt of a Notice of Termination, and except as otherwise directed by the Owner, the Contractor shall:

- (a) Stop work under this Contract on the date and to the extent specified in the Notice of Termination.
- (b) Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under this Contract as is not terminated.
- (c) Terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination.
- (d) Assign to the Owner, in a manner, at the times, and to the extent directed by the Owner, all of the right, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case the Owner shall have the right, in the Owner's discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.
- (e) Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Owner to the extent the Owner may require, which approval or ratification shall be final for all the purposes of this clause.
- (f) Transfer title and deliver to the Owner, in the manner, at the times, and to the extent, if any directed by the Owner, the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced as a part of, or acquired in connection with the performance of, the work terminated by the Notice of Termination.
- (g) Complete performance of such part of the work as shall not have been terminated by the Notice of Termination.
- (h) Take action as may be necessary or as the Owner may direct, for the protection and preservation of the property related to this Contract which is in the possession of the Contractor and in which the Owner has or may acquire an interest.

23.3 After receipt of a Notice of Termination, the Contractor shall submit to the Owner the Contractor's termination claim, in the form and with the certification prescribed by the Owner. Such claim shall be submitted promptly, but in no event later than one month from the effective date of termination unless one or more extensions in writing are granted by the Owner. No claim will be allowed for machinery and equipment rental expense incurred after the effective date of the Notice of Termination.

Upon failure of the Contractor to submit a termination claim within the time allowed, the Owner shall determine, on the basis of information available to the Owner, the amount, if any, due to the Contractor by reason of the termination and shall thereupon advise the Owner the amount so determined.

- 23.4 The Contractor and the Owner may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the total or partial termination of work pursuant to this clause, which amount or amounts may include a reasonable allowance for profit on work done; provided, that such agreed amount or amounts, exclusive of settlement costs shall not exceed the total Contract price as reduced by the amount of payments otherwise made and as further reduced by the Contract price of work not terminated. The Contract shall be amended accordingly and the Contractor shall be paid the agreed amount. Nothing in this clause, prescribing the amount to be paid to the Contractor in the event of failure of the Contractor by reason of the termination of work pursuant to this clause, shall be deemed to limit, restrict, or otherwise determine or affect the amount or amounts which may be agreed upon to be paid to the Contractor pursuant to this Paragraph.
- 23.5 In the event of the failure of the Contractor and the Owner to agree as provided in the preceding paragraph on the whole amount to be paid to the Contractor by reason of the termination of work pursuant to this Article, the Owner shall determine, on the basis of information available to the Owner, with respect to all Contract work performed prior to the effective date of the Notice of Termination, the total (without duplication of any items) of the cost of such work and a sum, as a profit, equal to two percent of said cost of the work, which represents the cost of articles or materials delivered to the site, but not incorporated in the work and in place on the effective date of the Notice of Termination, plus a sum equal to eight percent of the remainder to such amount, but the aggregate of such sums shall not exceed six percent of the whole of the amount determined above; provided, however, that if it appears that the Contractor would have sustained a loss on the entire Contract had it been completed, no profit shall be included or allowed under this paragraph and an approximate adjustment shall be made reducing the amount of the settlement to reflect the indicated rate of loss.
- 23.6 The total sum to be paid to the Contractor shall not exceed the total Contract price as reduced by the amount of payments otherwise made and as further reduced by the contract price of work not terminated. Except for normal spoilage, and except to the extent that the Owner shall have otherwise expressly assumed the risk of loss, there shall be excluded from the amounts payable to the Contractor the fair value, as

determined by the Owner, of property which is destroyed, lost, stolen, or damaged so as to become undeliverable to the Owner.

- 23.7 In arriving at the amount due the Contractor under this clause there shall be deducted (1) all unliquidated advance or other payment on account theretofore made to the Contractor, applicable to the terminated portion of this contract, (2) any claim which the Owner may have against the Contractor in connection with this Contract, and (3) the agreed price for, or the proceeds of sale of, any materials, supplies, or other things kept by the Contractor or sold, pursuant to the provisions of this clause, and not otherwise recovered by or credited to the Owner.

24. ATTORNEY'S FEES

- 24.1 In the event of any legal action to enforce the terms of this Contract, each party shall bear its own attorney's fees and costs.

25. VENUE

- 25.1 Venue for any legal action by any party to this Contract to interpret, construe or enforce this Contract, shall be in a court of competent jurisdiction in and for Brevard County, Florida, and any trial shall be non-jury.

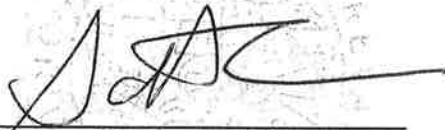
26. WAIVER OF JURY TRIAL

- 26.1 The parties acknowledge that by entering into this Contract, they are giving up their rights to have any dispute decided before a jury. Any trial will be a non-jury trial.


IN WITNESS WHEREOF the parties hereto have executed this Contract on the day and date first above written in three counterparts, each of which shall, without proof or accounting for the other counterparts, be deemed an original Contract.

ATTEST

BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA
Party of the First Part



Scott Ellis, Clerk
Brevard County, Florida

By: 


Bryan Andrew Lober, Chair
As approved by the Board on: April 21, 2020


Reviewed for legal form and content:

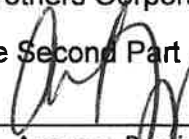


County Attorney

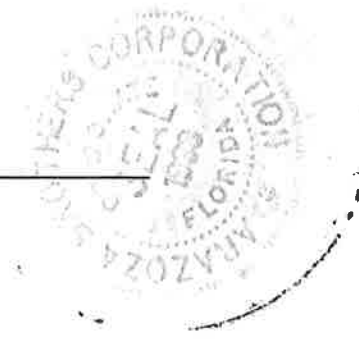
Witnessed in the presence of:**





Arazoza Brothers Corporation
Party of the Second Part
By: 

Alberto Arazoza, President
(seal)



(*) In the event that the Contractor is a Corporation, there shall be attached to each counterpart a certified copy of a resolution of the Board of Directors of the Corporation, authorizing the officer who signs the Contract to do so in its behalf.

(**) Two witnesses are required when Contractor is sole ownership or partnership

**SECTION 6
PUBLIC CONSTRUCTION BOND**

(Payment and Performance)

BY THIS BOND, We Arazoza Brothers Corporation, having its principal place of business at 15901 SW 242 Street, Homestead, FL 33031,
(305) 246 - 3223, herein called Principal, and Great Midwest Insurance Company,
having its principal place of business at 800 Gessner, Suite 600, Houston, Texas 77024,
(713) 935 - 0226, a corporation as Surety, are bound to Board of County Commissioners of Brevard County, Florida, 2725 Judge Fran Jamieson Way, Viera, Florida, 32940, (321) 633-2000, herein called Owner and the State of Florida, Department of Transportation as an additional obligee, in the sum of \$581,130.00 for payment of which we bind ourselves, our heirs, personal representatives, successors, and assigns, jointly and severally.

THE CONDITIONS OF THIS BOND are that if Principal:

1. Performs the contract number 4813 dated July 1, 2020 between Principal and Owner for the Viera Boulevard and Interstate 95 Landscape Project. The project includes planting and establishing new landscaping in several locations along the new interchange, the contract being made a part of this bond by reference, at the times and in the manner prescribed in the contract; and
2. Promptly makes payments to all claimants, as defined in Section 255.05(1), Florida Statutes, supplying Principal with labor, materials, or supplies, used directly or indirectly by Principal in the prosecution of the

work provided for in the contract; and

3. Pays Owner all losses, damages, expenses, costs, and attorney's fees, including appellate proceedings, that Owner sustains because of a default by Principal under the contract; and
4. Performs the guarantee of all work and materials furnished under the contract for the time specified in the contract, then this bond is void; otherwise it remains in full force.

Any action instituted by a claimant under this bond for payment must be in accordance with the notice and time limitation provisions in Section 255.05(2) and (10), Florida Statutes.

Any changes in or under the contract documents and compliance or noncompliance with any formalities connected with the contract or the changes does not affect Surety's obligation under this bond.

Signed and sealed this 21st day of July, 2020.

Witness:



Arazoza Brothers Corporation

(Principal)

(Seal)

Its:

(Title) President

Witness:



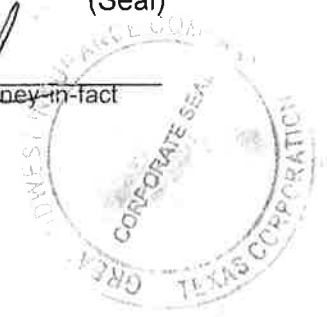
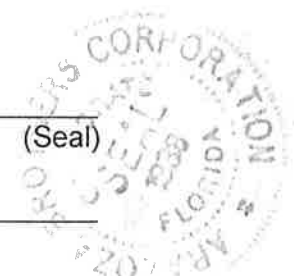
Great Midwest Insurance Company

(Surety)

(Seal)

Its:

(Title) Charles J. Nielson, Attorney-in-fact



POWER OF ATTORNEY

GM- 202497

Great Midwest Insurance Company

KNOW ALL MEN BY THESE PRESENTS, that **GREAT MIDWEST INSURANCE COMPANY**, a Texas Corporation, with its principal office in Houston, TX, does hereby constitute and appoint: Dale A. Belis, Marilyn Ann Blome, Donald Bramlage, Edward M. Clark, Christian Collins, F. Danny Gann, David R. Hoover, Jarrett Merlucci, Laura D. Mosholder, Charles J. Nielson, Jessica P. Reno, Audria R. Ward, Edward T. Ward, Kevin Wojtowicz, Richard Zimmerman its true and lawful Attorney(s)-In-Fact to make, execute, seal and deliver for, and on its behalf as surety, any and all bonds, undertakings or other writings obligatory in nature of a bond.

This authority is made under and by the authority of a resolution which was passed by the Board of Directors of **GREAT MIDWEST INSURANCE COMPANY**, on the 1st day of October, 2018 as follows:

Resolved, that the President, or any officer, be and hereby is, authorized to appoint and empower any representative of the Company or other person or persons as Attorney-In-Fact to execute on behalf of the Company any bonds, undertakings, policies, contracts of indemnity or other writings obligatory in nature of a bond not to exceed Four Million dollars (\$4,000,000.00), which the Company might execute through its duly elected officers, and affix the seal of the Company thereto. Any said execution of such documents by an Attorney-In-Fact shall be as binding upon the Company as if they had been duly executed and acknowledged by the regularly elected officers of the Company. Any Attorney-In-Fact, so appointed, may be removed in the Company's sole discretion and the authority so granted may be revoked as specified in the Power of Attorney.

Resolved, that the signature of the President and the seal of the Company may be affixed by facsimile on any power of attorney granted, and the signature of the Secretary, and the seal of the Company may be affixed by facsimile to any certificate of any such power and any such power or certificate bearing such facsimile signature and seal shall be valid and binding on the Company. Any such power so executed and sealed and certificate so executed and sealed shall, with respect to any bond of undertaking to which it is attached, continue to be valid and binding on the Company.

IN WITNESS THEREOF, **GREAT MIDWEST INSURANCE COMPANY**, has caused this instrument to be signed by its President, and its Corporate Seal to be affixed this 15th day of October, 2018.

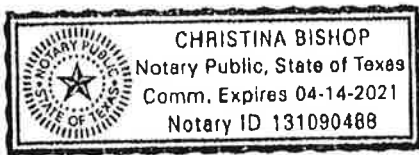


GREAT MIDWEST INSURANCE COMPANY

BY *Peter B. Smith*
Peter B. Smith
President

ACKNOWLEDGEMENT

On this 15th day of October, 2018, before me, personally came Peter B. Smith to me known, who being duly sworn, did depose and say that he is the President of **GREAT MIDWEST INSURANCE COMPANY**, the corporation described in and which executed the above instrument; that he executed said instrument on behalf of the corporation by authority of his office under the By-laws of said corporation.



BY *Christina Bishop*
Christina Bishop
Notary Public

CERTIFICATE

I, the undersigned, Secretary of **GREAT MIDWEST INSURANCE COMPANY**, A Texas Insurance Company, DO HEREBY CERTIFY that the original Power of Attorney of which the foregoing is a true and correct copy, is in full force and effect and has not been revoked and the resolutions as set forth are now in force.

Signed and Sealed at Houston, TX this 21st Day of July, 2020



BY *Leslie K. Shaunty*
Leslie K. Shaunty
Secretary

"WARNING: Any person who knowingly and with intent to defraud any insurance company or other person, files and application for insurance of claim containing any materially false information, or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties.



SECTION 7 GENERAL CONDITIONS

1. ABBREVIATIONS

- 1.1 References in the specifications to technical societies, organizations, or bodies are made in accordance with the following abbreviations:

AASHTO	American Association of State Highway and Transportation Officials
ACI	American Concrete Institute
AISC	American Institute of Steel Construction
ANSI	American National Standards Institute, Inc.
ASHRAE	American Society of Heating, Refrigerating and Air-Conditioning Engineers
ASME	American Society of Mechanical Engineers
ASTM	American Society for Testing and Materials
AWSC	American Welding Society Code
AWWA	American Water Works Association
CFR	Code of Federal Regulations
CRSI	Concrete Reinforcing Steel Institute
FDEP	Florida Department of Environmental Protection
F.D.O.T.	Florida Department of Transportation
FS	Federal Specifications
IEEE	Institute of Electrical and Electronic Engineers
NBFU	National Board of Fire Underwriters
NBS	National Bureau of Standards - US Department of Commerce
NFPA	National Fire Protection Association
OSHA	Occupational Safety and Health Act
PCA	Portland Cement Association
SJRWMD	St. Johns River Water Management District
SPR	Simplified Practice Recommendations
UL	Underwriters Laboratories, Inc.
WCDSB	Water Control District of South Brevard

- 1.2 In the event that the complete title and abbreviation for a society, organization or body is not listed herein, references to specifications or standards of the unlisted society, organization or body will be made using the full title of the society, organization or body.

2. INTENT AND CORRELATION OF DOCUMENTS

- 2.1 The Contract Documents cover, with explicit provisions, all matters relating to the work which the Contractor undertakes to construct or

perform in full compliance with such provisions. It is understood that the Contractor has, by personal examination and inquiry, has been satisfied as to all local conditions and as to the meaning, requirements and reservations of the Contract Documents. After the award to the Contractor, no deviation will be allowed from the Engineer of Record's interpretation thereof. The intent of the Contract Documents is to include all labor, materials, supplies, appliances, equipment and other incidentals necessary or convenient to the successful completion of the work and the carrying out of all duties and obligations imposed by the Contract Documents. The Contractor shall, in addition, provide all work and materials not shown in detail but necessary for completion of the project as indicated or specified, including a proper and suitable foundation preparation, base or support and a reasonable finish consistent with adjacent work which is shown or specified. The Contractor shall make plural and complete all work which, to avoid needless repetition or for the sake of brevity, has been shown singly or partially indicated. The Contractor shall follow the Drawings and execute all work in strict accordance therewith and with the kind and quality of materials indicated and specified. Materials or work described in words which, when so applied, have a well-known technical or trade meaning shall be held to refer to such recognized standards. Any deviation from the Drawings and Specifications, which may be required by the exigencies of construction, shall in all cases conform to written instructions of the Owner. The applicable provisions of the Contract Documents shall apply with equal force to all work, including extra work, performed under this contract, whether performed either directly by the Contractor or by any Subcontractor. The provision on the order of priority of interpretation of the Contract Documents contained in the Special Conditions shall control with any ambiguity or inconsistency.

- 2.2 The Contract Documents are complementary, and what is called for by any, shall be as binding as if called for by all. The Contractor shall carefully study and compare all Drawings, Specifications and other instructions; shall test all figures on the drawings before laying out the work; shall notify the Owner of all errors, inconsistencies, or omissions which the Contractor may discover; and obtain specific instructions before proceeding with the work. The Contractor shall not take advantage of any apparent error or omission which may be found in the Drawings or Specifications, but the Owner and/or Engineer of Record shall be entitled to make such corrections therein and interpretations thereof as the Owner and/or Engineer of Record may deem necessary for the fulfillment of their intent. The Contractor shall be responsible for all errors in construction which could have been avoided by such examination and notification and shall correct at the Contractor's expense all work improperly constructed through failure to notify the Owner and request specific instructions. In

the event of inconsistencies in the requirements of the Drawings and Specifications, the more expensive and/or stringent will be required, and in case of conflict between the Special Provisions and General Conditions, the Special Provisions shall take precedence over General Conditions. The captions or subtitles of the several Articles and Divisions of these Contract Documents constitute no part of the context hereof, but are only labels to assist in locating and reading the provisions hereof.

- 2.3. Full size details shall take precedence over scale drawings, and large-scale drawings shall take precedence over small scale drawings. Computed dimensions shall take precedence over scaled dimensions.
- 2.4. When measurements are affected by conditions already established or where items are to be fitted into constructed conditions, it shall be the Contractor's responsibility to verify all such dimensions at the site and the actual job dimensions shall take precedence over scale and figure dimensions on the Drawings.
- 2.5. Wherever a stock size of manufactured item or piece of equipment is specified by its nominal size, it shall be the responsibility of the Contractor to determine the actual space requirements for setting and for entrance to the setting space to make all necessary allowances and adjustments there for in the work without additional cost to the Owner.
- 2.6. Unless otherwise stated, standard specifications or other specifications of the organizations, societies or bodies referred to herein, or to specifications listed therein, shall refer to their current editions, and whenever it is stated in the Specifications that materials or work shall conform to the requirements of any of these specifications, such work and/or material shall also conform to any other specification referred to therein.

3. NOTICE AND SERVICE

- 3.1. All notices, demands, requests, instructions, approvals and claims shall be in writing.
- 3.2. Any notice to or demand upon the Contractor shall be sufficiently given if delivered to such office of the Contractor specified in the Proposal (or to such other office as the Contractor may from time to time designate to the Owner in writing), or if deposited in the United States mail in a sealed, postage prepaid envelope, or if delivered electronically via e-mail.
- 3.3. All notices or other papers required to be delivered by the Contractor to the Owner, or to any of its representatives shall, unless otherwise

specified in writing to the Contractor, be delivered to the office as indicated in the Contract Documents, and any other notice or demand upon the Owner shall be sufficiently given if delivered to such office, or if deposited in the United States mail in a sealed, postage prepaid envelope, or if delivered electronically via email, in each case addressed to such office (or to such other representative of the Owner or to such other address as the Owner may subsequently specify in writing to the Contractor for such purpose).

- 3.4 Any such notice or demand shall be deemed to have been given or made as of the time of actual delivery, or, in the case of mailing, when the same should have been received in due course of posts at the time of actual receipt thereof.

4. COPIES FURNISHED

- 4.1 The Contractor will be supplied with printed copies and a PDF of the Drawings and Specifications. Additional copies which may be needed by the Contractor will be furnished at the cost of printing. One complete set of Drawings and Specifications shall be kept on the job by the Contractor and shall be accessible at all times.

5. SHOP DRAWINGS

- 5.1 The Contractor shall submit with such promptness as to cause no delay in the work, all shop or setting drawings and schedules required for the work of the various trades. Before submitting shop drawings, the Contractor shall check all drawings for accuracy, correlate them, and make necessary corrections. The Contractor shall indicate review of these drawings by appropriate stamp denoting the Contractor's approval. Shop drawings submitted to the Owner without this stamp will be returned without action. After the Contractor's review, the Contractor shall submit shop drawings to the Owner for approval. The Contractor may submit shop drawings electronically, to the Owner, if desired. It is the Contractor's responsibility to verify that they are received by the Owner.
- 5.2 Shop drawings shall be dated and identified by project name, and shall indicate descriptive names of equipment, type and class of materials, item numbers, reference to drawings, specification reference, and location at which materials or equipment are to be installed in the work.
- 5.3 Shop drawings shall be submitted with transmittal letters containing project name, Contractor's name, number of drawings and other pertinent data. Shop drawings and submittal data will be reviewed two times; thereafter, all further review time will be charged to the Contractor at a rate

of \$50 per hour, which shall not be back charged to the Owner.

- 5.4 Shop drawings shall be reviewed for general design and arrangement with reasonable promptness (a maximum of 14 days – 2 days for processing to the reviewer – 10 days for review – 2 days for processing to Contractor), making desired corrections. The approval of such drawings or schedules will not include verification of dimensions or quantities, nor shall it relieve the Contractor from responsibility for deviations from drawings and/or specifications unless the Contractor has, in writing, called the Owner's attention to such deviations at the time of submission; nor shall it relieve the Contractor from responsibility for errors of any sort in shop drawings or schedules or proper correlation with other work. The Contractor shall make any corrections required and file with the Owner the corrected shop drawings.
- 5.5 Shop drawings are required for all materials utilized on the project such as sewer, water, asphalt, base, concrete, traffic signal devices, traffic signs, irrigation systems, landscaping and drainage structures.

6. OWNERSHIP OF DRAWINGS

- 6.1 All Specifications, Drawings, other Contract Documents and copies thereof furnished by the Owner shall remain the property of the Owner. They shall not be used on another project unless such use is authorized by the Owner and, with the exception of those sets which have been signed in connection with the execution of the agreement, shall be returned to the Owner upon completion of the project.

7. SAMPLES

- 7.1 The Contractor shall furnish to the Owner for approval all samples of materials as directed. The work shall then be in accordance with approved samples.

8. MATERIALS, APPLIANCES, EMPLOYEES

- 8.1 Unless otherwise stipulated, the Contractor shall provide and pay for all materials, supplies, labor, water, tools, equipment, light, power, Transportation and other facilities necessary for expeditious execution and completion of the work in an acceptable manner. Unless otherwise definitely specified, it is a general requirement of the specifications that all materials and workmanship shall meet the requirements of the applicable standard specifications of the American Society for Testing and Materials or of the Federal Standardization Documents as minimum requirements.

- 8.2 The Contractor shall at all times enforce strict discipline and good order among all employees, and shall not employ on the work site any unfit person or anyone not skilled in the work assigned. Anyone whose work is unsatisfactory to the Owner or who are considered by the Owner as careless, incompetent, unskilled or disorderly, who use threatening or abusive language to any person having supervision of the work site, or who are otherwise objectionable, shall be dismissed from the work site upon notice from the Owner and shall not be employed on the work site thereafter. No alcoholic beverage shall be allowed on the work site.
- 8.3 All labor described in these specifications or indicated on the drawings and the work specified or indicated, shall be executed in a thoroughly substantial and workmanlike manner and by mechanics skilled in the applicable trade. All materials, fixtures and apparatus shall be installed in an undamaged condition.
- 8.4 Except as otherwise specified, all materials, fixtures and apparatus shall be new and of good quality and shall be delivered to the site of the work in an undamaged condition and shall be properly stored and secured by the Contractor to maintain them in an undamaged condition. The Contractor shall, if required, furnish satisfactory evidence as to the kind and quality of materials.
- 8.5 Whenever materials are sold by the manufacturer in sealed packages, they shall be so delivered on the job and maintained until their use.
- 8.6 The Contractor shall make written request to the Owner for, and obtain the Owner's written approval of, the use of any material proposed for use when "approved" materials are specified without mentioning any standard by name.
- 8.7 All written requests for approval of materials shall be made within thirty days after the contract is signed and before ordering any materials requiring such approval.
- 8.8 If any materials specified shall no longer be available during the progress of the work, or if the quality of the material no longer meets with satisfactory approval of the Owner, the Engineer of Record shall specify an equal which will be satisfactory to the Engineer of Record, with the Owner's approval. Resultant cost modifications, if any, shall be as provided for modifications in the work.
- 8.9 Whenever materials or equipment are specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular supplier with the addition of such expressions as "or equal"

or "or approved equal", the naming of the item is intended to establish the type, function and quality required. When "or equal" or "or approved equal" is used, materials or equipment of other suppliers may be accepted if sufficient information is submitted by the Contractor to allow a determination that the material or equipment proposed is equivalent or equal to that named. The procedure for review will include the following as may be supplemented in the Specifications. Requests for review of substitute items of material and equipment will not be accepted from anyone other than the Contractor. If the Contractor wishes to furnish or use a substitute item of material or equipment, the Contractor shall make written application to the Owner for acceptance thereof, certifying that the proposed substitute will perform adequately the functions and achieve the results called for by the general design, be similar and of equal substance to that specified and be suited to the same use as that specified. The application will state that the evaluation and acceptance of the proposed substitute will not prejudice the Contractor's achievement of project completion on time, whether or not acceptance of the substitute for use in the work will require a change in any of the Contract Documents (or in the project) to adapt the design to the proposed substitute and whether or not incorporation or use of the substitute in connection with the work is subject to payment of any license fee or royalty. All variations of the proposed substitute from that specified will be identified in the application and available maintenance, repair and replacement service will be indicated. The application will also contain an itemized estimate of all costs that will result directly or indirectly from acceptance of such substitute, including costs of redesign and claims of other contractors affected by the resulting modification, all of which shall be considered in evaluating the proposed substitute. The Owner may require the Contractor to furnish, at the Contractor's expense, additional data about the proposed substitute.

- 8.10 The Owner will be allowed a reasonable time within which to evaluate each proposed substitute. The Engineer of Record and Owner will be the sole judges of acceptability, and no substitute will be ordered, installed or utilized without the Engineer's or Owner's prior written acceptance which will be evidenced by either a contract modification or an approved Shop Drawing. It is distinctly understood that, (1) the Owner and the Engineer of Record's sole judgment is to be utilized in determining whether or not any article, material or item proposed to be substituted is the equal of any article, material or item so specified; (2) the decision of the Owner and Engineer of Record on all such questions of equality shall be final and binding upon the Contractor and (3) in event of any adverse decision made by Owner and/or Engineer of Record, no claim of any sort by the Contractor shall be made or allowed against the Engineer of Record or Owner. The Owner may require the Contractor to furnish, at the Contractor's expense, a special performance guarantee or other surety

with respect to any substitute. The Engineer of Record will record time required by the Engineer of Record and any Engineer of Record's consultants in evaluating substitutions proposed by the Contractor and in making modifications in the Contract Documents occasioned thereby. Whether or not the Engineer of Record accepts a proposed substitute, the Contractor shall reimburse the Owner for the charges of the Engineer of Record and any Engineer of Record's consultants for evaluating each proposed substitute. Where trade names are specified without the phrase "or equal", or "or approved equal", or where alternate trade names are specified without the phrase "or equal" or "or approved equal", or where alternate trade names are specified without the phrase "or equal" or "or approved equal", such products are hereby approved for quality and no substitution will be permitted.

- 8.11 Materials and equipment designated for permanent installation in the work shall be properly stored by the Contractor on the site when delivered, to insure protection against deterioration of any type. These materials shall be so placed as to cause a minimum of inconvenience to other contractors on the work and to the public. The storage piles shall be arranged to facilitate inspections, and any deterioration shall be grounds for rejection.

9. PATENTS AND ROYALTIES

- 9.1 It is mutually understood and agreed that, without exception, contract prices are to include all royalties and costs arising from patents, trademarks and copyrights in any way involved in the work. It is the intent that whenever the Contractor is required or desires to use any design, device, material or process covered by letters, patent or copyright, the right for such use shall be provided for by suitable legal agreements with the patentee or owner, and a copy of this agreement shall be filed with the Owner; however whether or not such agreement is made or filed as noted, the Contractor and the Surety in all cases shall indemnify and save harmless to a limit of \$1,000,000 said Owner for any costs, expenses and damages which it may be obliged to pay, by reason of any such infringement, at any time during the prosecution or after the completion of the work.

10. SALES TAX AND EXCISE TAX

- 10.1 All sales tax and excise taxes shall be paid by the Contractor, except as otherwise provided in these Contract Documents.

11. SUPERVISION AND RESPONSIBILITY OF THE CONTRACTOR

- 11.1 The Contractor shall give the work the constant attention necessary to

facilitate the progress thereof and shall cooperate with the Owner and with other contractors in every way possible. 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. Such superintendent shall be furnished by the Contractor and present when work is being performed, irrespective of any work being done by any subcontractor hired by the Contractor.

- 11.2 The Contractor shall designate the superintendent on the job to the Owner in writing immediately after receipt of the notice to proceed. The parties understand and agree that the superintendent's physical presence is indispensable to the successful completion of the work in a good and workmanlike manner. If the superintendent is absent from the job site, the Owner may deliver written notice to the Contractor and all work on the job of the Contractor and its Subcontractors shall immediately cease at the sole discretion of the Owner.
- 11.3 The Contractor shall assign personnel who have successfully completed training programs and are certified as a Competent Person, Confined Space Entry Supervisor and a Temporary Traffic Control (T.T.C.) Advanced Certification for the Worksite Traffic Supervisor, who shall be present at all times during construction.
- 11.4 The Contractor shall be solely and wholly responsible for delivering the completed work in a good and workmanlike condition and for the good condition of the work and materials until final acceptance by the Owner. The Contractor shall bear all losses resulting on account of the weather, fire, the elements, or other causes of every kind or nature.
- 11.5 In any and all claims against the Owner or any of their agents or employees by any employee of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any Subcontractor under Workers' Compensation Acts, Disability Benefit Acts or other employee benefit acts.
- 11.6 The Contractor shall be held responsible for any violation of laws or ordinances affecting in any way the conduct of all persons engaged, or the materials or methods used by the Contractor, on the work.
- 11.7 The Contractor shall provide and maintain at the Contractor's expense, in a sanitary condition, such accommodations for the use of the Contractor's

employees as are necessary to comply with the requirements and regulations of the State Department of Health and Rehabilitative Services or the County Health Department. The Contractor shall commit no public nuisance. Sanitary facilities shall be at least 500-feet from the nearest potable water well. Toilets shall have incorporated therein approved metal or plastic containers which shall be tightly closed and all waste shall be transported away from the site of the work and disposed of properly.

12. PRECONSTRUCTION MEETING

- 12.1 Prior to the issuance of the Notice to Proceed, the Preconstruction Meeting shall be held to review the schedule of work, to establish procedures for handling shop drawings and other submissions, and to establish a working understanding between the Parties as to the project.

Present at the Preconstruction Meeting will be the Owner's Designee(s), the Construction Engineering Inspector, the Contractor and the Superintendent, and others as may be specified in these Contract Documents.

In addition to the Parties aforementioned above, the following parties will be asked to attend the Preconstruction Meeting: AT&T, Brevard County Utility Services, Spectrum, City of Cocoa, Florida City Gas, Florida Gas Transmission, Florida Power & Light (Distribution and Transmission), FPL Fibernet, Level 3 Communications, Florida Department of Transportation, Brevard County Public Works Traffic Operations, and any other utility and infrastructure agencies known to be affected.

- 12.2 Seven days prior to the Preconstruction Meeting, the Contractor shall submit to the Owner the following:

- (a) Preliminary Construction progress schedule
- (b) Computerized critical path method schedule, which shall show chronologically all operations contemplated and necessary for the successful completion of the work within the agreed contract time
- (c) Schedule of shop drawing submissions
- (d) List of subcontractors to include type and value of work
- (e) Quality Control Plan
- (f) Preliminary Stormwater Pollution Prevention Plan (S.W.P.P.P.)
- (g) All persons employed by the Contractor or subcontractors working within the F.D.O.T. right-of-way shall have Tier 1 Illicit Discharge Detection and Elimination (I.D.D.E.) training. The computer-based training is provided by video on the following web page:
<http://wbt.dot.state.fl.us/ois/IllicitDischarge/index.htm>

Provide a list of the trained personnel. This list shall be updated, as needed, during the duration of the contract.

13. PROGRESS AND SUBMISSION SCHEDULES

- 13.1 The Contractor shall not commence construction operations until the progress schedule and critical path method schedule have been approved by the Owner. After approval of the construction progress schedule, no deviations from it shall be made without prior approval from the Owner. The critical path schedule shall be updated on a monthly basis. Included with the progress schedule shall be a schedule of values of lump sum items which indicate costs in relation to the progress schedule and unit costs.

14. SURVEYS, PERMITS AND REGULATIONS

- 14.1 The Contractor shall furnish all surveys unless otherwise specified. This shall include supplying and maintaining all centerline survey and bench marks during the utility relocation phase. The Contractor shall have the right of way staked every 100 feet (six-inch-wide white painted markers with stationing in black paint per F.D.O.T. Standard Plans) and shall maintain such for the duration of the project beginning with the notice to proceed. After curb is installed on roadway, stationing can be painted on face of curb every 100'.
- 14.2 The Owner will obtain all permits needed for the project and provide all permit fee costs with the exception of: (1) any consumptive use permits that may be needed as determined by the St. John's River Water Management District, (2) a National Pollutant Discharge Elimination System (N.P.D.E.S.) Construction Permit as determined by the Environmental Protection Agency, and (3) any permits needed for use of explosives. Determining whether these permits listed as exceptions 1, 2, and 3 above are required, obtaining and payment of the permits if so determined, is solely the responsibility of the contractor.
- 14.3 The Contractor shall give all notices and comply with all laws, ordinances, rules and regulations bearing on the conduct of the work as drawn and specified. If the Contractor observes that the drawings and specifications are at variance therewith, the Contractor shall promptly notify the Owner in writing, and any necessary modifications shall be adjusted as provided in the Contract for modifications in the work. If the Contractor performs any work contrary to such laws, ordinances, rules and regulations, and without such notice to the Owner, the Contractor shall bear all costs arising there from.
- 14.4 The Contractor shall strictly observe all applicable laws and regulations as to public and occupational safety, health and sanitation.

- 14.5 The Contractor shall save harmless the Owner and all of its officers, agents and servants, including the Owner, against any claims or liability arising from, or based on, the violation of any such laws, bylaws, ordinances, regulations, orders or decrees, whether violated by the Contractor, the Contractor's employees, agents, subcontractors, etc.

15. PROTECTION OF PROPERTY AND THE PUBLIC

- 15.1 The Contractor shall continuously maintain adequate protection of all work from damage and shall protect public and private property from injury or loss arising in connection with this contract. The Contractor shall make redress for any such damage, injury or loss. The Contractor shall adequately protect adjacent property as provided by law and the Contract Documents.
- 15.2 The Contractor shall take all necessary precautions for the safety of employees on the work, and shall comply with all applicable provisions of Federal, State and local safety laws, including, but not limited to the requirements of the Occupational Safety and Health Act of 1970, and Amendments thereto, and building codes to prevent accidents or injury to persons on, about or adjacent to the premises where the work is being performed.
- 15.3 The Contractor shall erect and properly maintain at all times, as required by the conditions and progress of the work, all necessary safeguards, including sufficient lights and danger signals on or near the work, from sunset to sunrise; the Contractor shall erect suitable railings, barricades, or other protective devices about unfinished work, open trenches, embankments, or other hazards and obstructions to traffic; the Contractor shall provide all necessary watchmen on the work by day or by night for the safety of the public; and the Contractor shall take all necessary precautions to prevent accidents and injuries to persons or property in or about the work. This shall be accomplished in accordance with the Technical Specifications.
- 15.4 In an emergency affecting the safety of life or of the work or of adjoining property, the Contractor shall act promptly at the Contractor's discretion to prevent such threatened loss or injury, and shall so act, without appeal if so instructed or authorized. Any compensation claimed by the Contractor on account of emergency work shall be determined by the Owner.
- 15.5 Should warnings of winds of gale force or stronger be issued, the Contractor shall take every practicable precaution to minimize danger to persons, to the work and to adjacent property. These precautions shall include but not be limited to closing all openings, removing all loose

materials, tools and/or equipment from exposed locations; and removing or adequately securing scaffolding and other temporary or partially completed work.

- 15.6 The Contractor shall in every respect be responsible for, and shall replace and make good all loss, injury, or damage to the premises (including landscaping, walks, drives, structures) on the premises and property of owners of any land adjoining, which may be caused by the Contractor or the Contractor's employees, agents, subcontractors, etc., or which the Contractor or they might have prevented. The Contractor shall, at all times while the work is in progress, use extraordinary care to see that adjacent buildings are not endangered in any way by reason of fire, water, vibration or construction operations, and to this end shall take such steps as may be necessary or directed, to protect the property therefrom; the same care shall be exercised by all Contractor's and Subcontractor's employees.
- 15.7 Buildings, sidewalks, fences, shade trees, lawns and all other improvements shall be duly protected from damage by the Contractor. Property obstructions, such as sewers, drains, water or gas pipes, conduits, railroads, poles, walls, posts, galleries, bridges, manholes, valve boxes, street monuments, etc., shall be carefully protected from injury and shall not be displaced if avoidable. The Contractor shall give due notice to any department or public service corporation controlling such items as manholes, valve boxes, meter boxes, street monuments, etc., prior to adjusting them to grade and shall be held strictly liable to the affected utility if any such appliances are disturbed, damaged or covered up during the course of the work.
- 15.8 The Contractor shall maintain satisfactory access to all adjacent properties at all times during the project.

16. OBSERVATION OF THE WORK

- 16.1 The Owner shall have free access to the materials and the work at all times for measuring or observing the same, and the Contractor shall afford all necessary facilities and assistance for so doing.
- 16.2 After written authorization to proceed with the work, the Owner and their employees, consultants, and representatives shall:
- (a) Make visits to the site at intervals appropriate to the various stages of construction to observe the progress and quality of the executed work and to determine, if the work is proceeding in accordance with the Contract Documents; the Owner will not be required to make

exhaustive or continuous on-site observations to check the quality or quantity of the work. The Owner shall not be responsible for the construction means, methods, procedures, techniques and sequences, nor for the Contractor's failure to perform the construction work in accordance with the Contract Documents. The Owner will not be responsible for safety precautions and procedures in connection with the work.

- (b) The Owner shall check and approve or disapprove samples, catalog data, schedules, shop drawings, laboratory, shop and mill tests of materials and equipment and other data which the Contractor is required to submit, only for conformance with the design concept of the project and compliance with the information given by the Contract Documents and assemble written guarantees which are required by the Contract Documents.
- (c) The Construction Engineering Inspector or designee shall consult and advise with the Owner.
- (d) Based on on-site observations as an experienced and qualified construction engineering inspection professional and on review of the Contractor's applications for payment, determine the amount owing to the Contractor and approve in writing payment to the Contractors in such amounts; such approvals of payment to constitute a representation to the Owner, based on such observations and review of the data comprising such applications, that the work has progressed to the point indicated and that, to the best of the Construction Engineering Inspector's knowledge, information and belief, the quality of the work is in accordance with the Contract Documents, subject to the results of any subsequent test called for in the Contract Documents and any qualifications stated in the approval. Such partial and final payments will be as specified elsewhere herein except as modified in this Paragraph.
- (e) The Construction Engineering Inspector shall conduct, in company with the Owner, a final inspection of the project for conformance with the design concept of the project and compliance with the information given by the Contract Documents, and approve in writing final payment to the Contractor.

16.3 The Owner shall have the authority to suspend the work wholly or in part for such period or periods as may be deemed necessary due to failure on the part of the Contractor to perform its duties under the Contract Documents, or carry out orders given to perform any or all provisions of the contract. The Contractor shall not suspend the work and shall not

remove any equipment, tools, lumber or other materials without the written permission of the Owner.

17. CONSTRUCTION ENGINEERING INSPECTOR

- 17.1 The authority and duties of the Construction Engineering Inspector are limited to examining the material furnished, observing the work done and reporting their findings to the Owner. The Engineer of Record does not underwrite, guarantee or ensure the work done by the Contractor. It is the Contractor's responsibility to perform the work in all details in accordance with the Contract Documents. Failure by any Construction Engineering Inspector or other representative of the Owner engaged in on-the-site observation to discover defects or deficiencies in the work of the Contractor shall never, under any circumstances, relieve the Contractor from the Contractor's liability there for to the Owner. The Contractor shall notify the Construction Engineering Inspector 48 hours in advance of readiness for any inspections. The Construction Engineering Inspector shall schedule any inspection (s) as necessary.
- 17.2 Construction Engineering Inspectors shall have no authority to permit deviation from or to modify any of the provisions of the Drawings or Contract Documents without the written permission or instruction of the Owner.
- 17.3 The Construction Engineering Inspector will not have authority to supervise, direct, expedite or otherwise control, instruct, or order the Contractor in the fulfillment of the Contractors' obligation. The Owner's instructions, orders, directions and/or orders to the Contractor shall be given only through the Owner, or the Owner's Representative (s).
- 17.4 If the Contract Documents, laws, ordinances, rules, regulations or orders of any public authority having jurisdiction require any work to specifically be inspected, tested, or approved by someone other than the Contractor, the Contractor will give the Construction Engineering Inspector 48 hours' notice of readiness there for. The Contractor will furnish the Construction Engineering Inspector and the Owner the required certificates of inspection, testing or approval. All such tests will be in accordance with the methods prescribed by the American Society for Testing and Materials, or such other applicable organization as may be required by law or the Contract Documents. If any such work required so to be inspected, tested or approved is covered without written approval of the Construction Engineering Inspector, it must, if requested by the Construction Engineering Inspector, be uncovered for observation at the Contractor's expense. The cost of all such inspections, tests and approvals shall be borne by the Contractor unless otherwise provided.

- 17.5 Owner shall provide a qualified Construction Engineering Inspector, as Owner's representative on-site who shall have duties which include, but are not limited to, verifying that work is performed in accordance with the Drawings and Contract Documents. He shall also:
- (a) Observe, monitor, and record a daily construction log of the construction progress, Contractor personnel and equipment on-site, any problem areas, and the resolutions.
 - (b) Verify all pay item quantities for partial payments or other payment to the Owner for Payment Approval.
 - (c) Maintain a photo log of critical construction items, prior to, during, and upon completion of the construction effort as situations dictate.
 - (d) Schedule Verification testing operations on-site with the Owner's Testing Laboratory, Owner and Contractor.
 - (e) Conduct on-site observations of the Work in progress in determining if the Work is, in general, proceeding in accordance with the Contract Documents.
 - (f) Report to Owner whenever the Construction Engineering Inspector believes that any Work will not produce a completed project that conforms generally to the Contract Documents or will prejudice the integrity of the design concept of the completed project as a functioning whole as indicated in the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise Owner of work Construction Engineering Inspector believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.
 - (g) Accompany visitors representing public or other agencies having jurisdiction over the project; record the results of these inspections and report to Owner.
 - (h) Be authorized to call to the attention of the Contractor any failure of the work or materials to conform to the Contract Documents.

The presence of the Construction Engineering Inspector, or his representatives shall in no way lessen the responsibility of the Contractor to perform work or

provide materials which conform to the Contract Documents.

18. DEFECTIVE WORK

- 18.1 If at any time, any defects shall be found prior to final acceptance of the work or materials, the Owner shall provide written notice to the Contractor giving the Contractor a cure period. Although the defects may have been overlooked by the Owner or may have been the result of damage from any cause, the Contractor shall promptly correct such defects, remove and dispose of all defective or unsatisfactory work or materials,
- 18.2 Should the Contractor fail or refuse to remove and renew any defective work performed, or to make any necessary repairs in an acceptable manner, and in accordance with the requirements of the Contract within the time indicated in writing, the Owner shall under these conditions cause the unacceptable or defective work to be removed or renewed, or such repairs as may be necessary to be made at the Contractor's expense. Any expense incurred by the Owner in making these removals, renewals or repairs, which the Contractor has failed or refused to make, shall be paid for out of any monies due or which may become due the Contractor, or shall be assumed by the Surety. Continued failure or refusal on the part of the Contractor to make any or all necessary repairs promptly, fully and in an acceptable manner, shall be sufficient cause for the Owner to declare the Contract in default, in which case the Owner at its option may contract with any other individual, firm or corporation to perform the work.
- 18.3 All costs and expenses incurred by the Owner due to the default of the Contractor, shall be charged against the defaulting Contractor, and the amount thereof deducted from any monies due, or which may become due, or shall be charged against the Public Construction Bond. Any special work performed, as described herein, shall not relieve the Contractor in any way from the Contractor's responsibility for the work.
- 18.4 The Owner shall have authority to disapprove or reject work which is believed to be defective, and shall also have authority to require special inspection or testing of the work, whether or not the work is fabricated, installed or completed. Nothing in this Section removes in any way the Contractor's control over its means and methods.

19. ALTERATIONS OR MODIFICATIONS IN DRAWINGS AND SPECIFICATIONS

- 19.1 The right is reserved for the Owner to make without notice to the Surety from time to time, such alterations in the Drawings or in the character of the work necessary or desirable to complete the proposed work to be consistent with the general intention of the Contract Documents, subject to

the approval of the Owner. Notice of every such alteration or modification shall be given in writing to the Contractor, and no such alteration or modification shall be considered as constituting a waiver of any of the provisions of the Contract Documents, or as nullifying or invalidating any such provisions. Should any such alteration or modification result in an increase or decrease in the quantity or the cost of the work or materials described in the Proposal, the total amount payable under the Contract will be accordingly modified. If alterations or modifications are thus made, the time for completion of the Contract will be correspondingly modified, if the Contractor so requests, before commencing the work attributable to such alterations or modifications.

20. SUBCONTRACTORS

20.1 The Contractor may utilize the services of specialty subcontractors on those parts of the work which under normal contracting practices are performed by such specialty subcontractors. The Contractor shall perform with its own organization work amounting to not less than 40% of work.

20.2 The Contractor shall not award any work to any subcontractor without prior written approval of the Owner. The Contractor shall be required to submit a sublet list which includes the subcontractor name, tier, type and value of the sublet work. Any changes to the sublet work shall require the Contractor to submit a revised sublet list to the Owner for approval.

The Contractor shall execute all agreements to sublet work in writing and include all pertinent provisions and requirements of the Contract Documents.

The Contractor shall be as fully responsible to the Owner for the acts and omissions of the Contractor's subcontractors, and of persons either directly or indirectly employed by them, as the Contractor is for the acts and omissions of persons directly employed by the Contractor. Nothing contained in the Contract Documents shall create any contractual relations between any subcontractor and the Owner.

20.3 The Contractor shall cause appropriate provisions to be inserted in all subcontracts relative to the work to bind subcontractors to the Contractor by the terms of the Contract Documents insofar as applicable to the work of Subcontractors, and to give the Contractor the same power as regards terminating any subcontract that the Owner may exercise over the Contractor under any provision of the Contract Documents.

21. SEPARATE CONTRACTS

- 21.1 The Owner reserves the right to let other contracts in connection with this project. The Contractor shall afford other contractors a reasonable opportunity for the introduction and storage of their materials and the execution of their work and shall properly connect and coordinate the Contractor's work with theirs.
- 21.2 If any part of the Contractor's work depends for proper execution or results upon the work of any other contractor, the Contractor shall examine and promptly report to the Owner any defects in such work that renders it unsuitable for such proper execution and results. The Contractor's failure to so inspect and report shall constitute the Contractor's acceptance, at the Contractor's own risk, of the other contractor's work as fit and proper for the reception of the Contractor's work, except as to defects which may develop in the other contractor's work after the execution of the work under this Contract.
- 21.3 To ensure the proper execution of the Contractor's subsequent work, the Contractor shall measure work already in place and shall at once report to the Owner any discrepancy between the executed work and the Drawings.

22. DISTRIBUTION OF WORK

- 22.1 The arrangement of the Specifications in sections, under general titles descriptive of the principal materials or trades covered, is for convenience. This subdivision follows trade practice as far as seems practical without unreasonably complicated or minute breakdown. Under many divisions it has seemed proper to include items of other trades or types of materials, the use or the installation of which is closely related to the principal subject of that division. Such arrangement shall not operate to make the Owner an arbitrator to establish subcontract limits between Contractor and Subcontractor.
- 22.2 The Contractor and all Subcontractors shall study the Drawings and Specifications in sufficient detail to assure that all required items are included. It shall be the General Contractor's responsibility to so arrange and distribute the work that all required items are provided by the proper trades and at the proper times, without controversy as to contract obligation, or as to jurisdiction, and the Contractor shall make all necessary adjustments to this end.

23. SCOPE OF PAYMENT AND PAY QUANTITY

- 23.1 The Contractor shall receive and accept the compensation as herein

provided in full payment for furnishing all materials, labor, tools, equipment and Transportation, and for performing all work required to complete the work under this Contract; and also in full payment for all loss or damage arising from the nature of the work or from the action of the elements, or from any unforeseen difficulties which may be encountered during the prosecution of the work until its final acceptance by the Owner.

- 23.2 The prices stated in the Proposal include all costs and expenses for labor, equipment, materials, commissions, Transportation charges and expenses, patent fees and royalties, labor for handling materials during observation and/or inspection, together with any and all other costs and expenses for performing and completing the work as specified.
- 23.3 Where the pay quantity for any item is designated to be based on plan quantity, such quantity will be revised only in the event that it is determined to be significantly in error. Any error shall be deemed significant if the quantity will increase or decrease in excess of five percent of the original plan quantity for such item or the amount due to that item will increase or decrease in excess of \$5,000.00 (whichever is smaller). In general, such revisions, where significant, will be determined by final measurement and/or plan calculations as additions to or deductions from original plan quantities.

24. BASIS OF PAYMENT

- 24.1 The basis of payment shall be the Contract Unit Prices and/or Contract Lump Sum Price named in the Proposal.

25. PARTIAL AND FINAL PAYMENTS

- 25.1 For the purpose of preparing a monthly estimate for partial payment of the Landscape Installation, the Owner will make an approximate estimate of the value of all work done as of the last day of each calendar month, and will deduct five percent thereof and all previous payments and charges, and the balance will be paid by the Owner to the Contractor on or about thirty days after submittal to the Owner. The Contractor shall review and sign each monthly estimate and submit same to the Owner, as directed. Such submittal constitutes request for payment by Contractor. The five percent which is deducted each month is reserved by the Owner as a partial guaranty to the Owner of the faithful execution of the Landscape Installation of the Contract. As a consideration of such payment of ninety-five percent, the Owner shall have the right to enter upon and put into proper service any or all parts of the work which may be in condition for use; however, such use shall not be construed as the final acceptance and the commencement of the two year guarantee bond period for any or

all parts of the work, unless final acceptance and payment is made for the complete project at that time. No claim or charge is to be made by the Contractor for such use, nor is such use to be construed as an acceptance by the Owner of any part of the work so used.

For the purpose of preparing the monthly partial payment during the Establishment Period, the Lump Sum amount for the Establishment Period will be prorated on a monthly basis of two calendar years for all work done as of the last day of each calendar month, and will deduct all previous payments and charges, and the balance will be paid by the Owner to the Contractor on or about thirty days after submittal to the Owner. The Contractor shall review and sign each monthly partial payment and submit same to the Owner, as directed. Such submittal constitutes request for payment by Contractor during the Establishment Period.

- 25.2 Upon receipt of written notice from the Contractor that the work has been completed in conformity with the Drawings and Specifications and any approved modifications thereto, the Owner and Construction Engineering Inspector shall promptly examine the work, the job area (which includes haul roads for damages from heavy loads), and making such tests as the Owner and Construction Engineering Inspector may deem proper and using all of the care and judgment normally exercised in the examination of completed work by a properly qualified and experienced professional engineer, and shall be satisfied that the Contractor's statement appears to be correct. The Construction Engineering Inspector shall then inform the Owner in writing that the Construction Engineering Inspector has examined the work and that it appears to conform to the contract drawings, specifications, and any approved contract modifications and that therefore the Construction Engineering Inspector recommends acceptance and final payment to the Contractor. However, it is agreed by the Owner and the Contractor that such statement by the Construction Engineering Inspector does not in any way relieve the Contractor from the Contractor's responsibility to deliver a completed job in good and workmanlike condition, and does not render the Engineer of Record, Construction Engineering Inspector, or the Owner liable for any faulty work done or materials used by the Contractor.
- 25.3 The Owner will then make a final estimate of the value of all work done and will deduct therefrom all previous payments which have been made. If applicable, the Construction Engineering Inspector will report such estimate to the Owner together with the recommendation as to the acceptance of the work or the findings as to any deficiencies therein. Such recommendation as to the acceptance of the work by the Construction Engineering Inspector will be made to the Construction Engineering Inspector's best knowledge and belief. After receipt and

acceptance by the Owner of the properly executed Affidavit and the original Release of Lien and within sixty days after approval of the final estimate and recommendation by the Owner, the amount of the estimate, less any charges or damages herein provided for, will be paid. Upon such final payment, the Owner shall be released by the Contractor from all liability whatever growing out of this Contract, except for the balance, if any, of such amount as may have been retained to cover charges, claims or damages, as specified; and if the Owner is satisfied that no such charges, claims or damages exist or will arise, no such amount will be retained. All prior estimates are subject to correction in the final estimate.

- 25.4 Each request for a partial payment shall be submitted on an Application for Payment Form which shall be accompanied by an executed copy of the Certification of Contractor as provided in these documents.
- 25.5 The General Contractor must provide Subcontractor(s) releases from the prior payment draw prior to making the next payment draw, and require Subcontractor Waivers of Rights Against Payment Bond for only the previous pay request. Notwithstanding the foregoing, pursuant to section 255.05(11), Florida Statutes, when the Contractor has furnished and recorded a payment and performance bond and provided the County with a written consent from the Surety regarding the project or payment in question, no such waivers shall be required. The Surety may, in a writing served on the County, revoke its consent or direct that the County withhold a specific amount from a payment, which shall be effective upon receipt.
- 25.6 If during the final inspection, the Owner finds that the work is improperly performed or in any way inadequate and will require subsequent or additional inspections, the Contractor shall bear the expense of all such additional inspections at the rate of \$100.00 per hour. The inspection time shall include travel time from the Owner's office to the project site and back. If such additional inspections are required after the contract completion time, their expense shall be included in and covered by the liquidated damages.
- 25.7 The Owner may make final payment retainage releases when all of the contract work has been completed, the As-Built Survey Drawings have been received, all necessary paperwork has been received and approved, all original releases of liens have been received from the subcontractors and suppliers and there are no contract modifications to be approved by the Board of County Commissioners. If any of the aforementioned were to exist, Board approval of the release of retainage is required.
- 25.8 The Owner may issue joint checks to the Contractor and the

Subcontractors when deemed appropriate by the Owner.

26. MEASUREMENT AND PAYMENT

- 26.1 Measurement and payment for work items for which direct payment is provided will be achieved as required by the Contract Documents. When no direct payment for work or materials is provided in the Contract Documents or shown, indicated or noted on the Drawings, compensation therefor shall be included in the Contract Unit or Lump Sum Prices for the several pay items under this Contract and shown and listed in the Proposal.
- 26.2 There will be no payment for overhead, profit, or miscellaneous expenses for any totally deleted items from the contract which have been deleted in a timely manner.

27. AFFIDAVIT AND RELEASE OF LIEN

- 27.1 When the work has been completed, the Contractor shall execute a Final Release of Lien and an Affidavit declaring that all bills have been paid in full. Notwithstanding the foregoing, pursuant to section 255.05(11), Florida Statutes, when the Contractor has furnished and recorded the Public Construction Bond (Payment and Performance) and provided the County with a written consent from the Surety regarding the project of payment in question, no such waivers shall be required.
- 27.2 These documents will be furnished to the Owner on those forms which appear on the following pages.

APPLICATION FOR PAYMENT

**BREVARD COUNTY PUBLIC WORKS DEPARTMENT
VIERA BOULEVARD AND INTERSTATE 95 LANDSCAPE PROJECT**

**CONTRACTOR:
CONTRACT NO.
PAGE 1 OF**

- | | | |
|----|---|----------|
| 1. | Extra work performed to date: | \$ _____ |
| 2. | Gross value to date: | \$ _____ |
| 3. | Five percent retained: | \$ _____ |
| 4. | Net amount due to date: | \$ _____ |
| 5. | Less previous net amount: | \$ _____ |
| 6. | Less other deductions (re-tests, as-builts, videos, etc.) | \$ _____ |
| 7. | Balance due for this payment: | \$ _____ |

CONTRACTOR'S CERTIFICATION

**I CERTIFY THAT THIS ACCOUNT IS CORRECT AND JUST AND THAT
THE ITEMS OF WORK HEREIN HAVE BEEN COMPLETED**

SIGNED:

Note: This form will be generated by the Owner. When submitted for payment this form must be accompanied with the Certification of Contractor Form.

AFFIDAVIT

STATE OF FLORIDA)
 ss
COUNTY OF _____)

Before me, the undersigned authority, authorized to administer oaths and take acknowledgments, personally appeared _____, who, after being first duly sworn, upon oath deposes and says that all lienors contracting directly with, or directly employed by (him, them, it) and that all taxes imposed by Chapter 212, Florida Statutes (Sales and Use Tax Act) as amended, have been paid and discharged, and that all bills, wages, fees, claims and other charges incurred by _____ for the Viera Boulevard and Interstate 95 Landscape Project

SIGNED: _____

By: _____

WITNESSES:

SWORN AND SUBSCRIBED TO BEFORE ME THIS _____ day of _____, 20____ A.D.

Notary Public
State of Florida-at-Large
My commission expires: _____
My commission number is: _____

**WAIVER OF RIGHTS AGAINST PAYMENT BOND
UPON MONTHLY PARTIAL PAYMENT**

The undersigned lienor, in consideration of the monthly partial payment in the amount of \$ _____ hereby waives and releases its lien and rights to claim a payment against the payment bond for labor, services or materials furnished through (date) _____ on the project of Brevard County as described below:

Viera Boulevard and Interstate 95 Landscape Project.

The waiver and release does not cover any retention of labor, services, or materials furnished after the date specified.

Dated on _____, 20__.

Claimant's Name _____

Address _____

By _____

Printed Name _____

STATE OF _____

COUNTY OF _____

Sworn to and subscribed before me this ____ day of _____, 20__, by _____, who is either personally known to me or produced _____, as identification, and who did/did not take an oath.

Notary Public Signature

My Commission Expires:

Notary Public Name (typed or printed)

**WAIVER OF RIGHTS AGAINST PAYMENT BOND
UPON FINAL PAYMENT**

The undersigned lienor, in consideration of the final payment in the amount of \$_____ hereby waives claimant and releases its lien and rights to claim payment for labor, services or materials furnished to (Contractor) _____ on the project of Brevard County as described below:

Viera Boulevard and Interstate 95 Landscape Project

dated on _____, 20__.

Claimant's Name _____

Address _____

By _____

Printed Name _____

STATE OF _____

COUNTY OF _____

Sworn to and subscribed before me this ____ day of _____, 20__, by _____, who is either personally known to me or produced _____, as identification, and who did/did not take an oath.

Notary Public Signature

My Commission Expires:

Notary Public Name (typed or printed)

28. MATERIALS STORED

28.1 No partial payment will be made for materials, supplies, or equipment stored.

29. CLEANUP

29.1 The Contractor shall keep the premises, site, drainage pipes and structures, and/or right of way free from accumulations of waste materials, rubbish and other debris resulting from the work. Upon completion of the work and before acceptance and final payment will be made, the Contractor shall clean and remove from the site, the right of way and adjacent property, all surplus and discarded materials, rubbish and temporary structures; restore in an acceptable manner all property, both public and private, which has been damaged during the prosecution of the work; and shall leave the site and vicinity unobstructed and in a neat and presentable condition throughout the entire area or length of the work under contract. The placing of materials of every character, rubbish, or equipment on abutting property, with or without the consent of the property owners, shall not constitute satisfactory disposal. If the work is of such character as may be done by blocks or sections, the Contractor may be required to remove promptly and dispose of accumulated rubbish, debris or surplus materials from blocks or sections as completed or partially completed.

29.2 In the event of delay exceeding two days after written notice is given to the Contractor by the Owner to remove such rubbish or materials, or to restore displaced or damaged property, the Owner may employ such labor and equipment as the Owner may deem necessary for the purpose and the cost of such work, together with the cost of supervision, shall be charged to the Contractor, and shall be deducted from any money due the Contractor on the monthly or final estimate. No contract shall be considered as having been completed until all rubbish and surplus materials have been removed and properly disposed of.

30. RECOVERY RIGHTS SUBSEQUENT TO FINAL PAYMENT

30.1 The Owner reserves the right, should an error be discovered in the partial or final estimates, or proof of defective work or materials used by or on the part of the Contractor be discovered after the final payment has been made to claim and recover from the Contractor or the Surety, or both, by process of law, such sums as may be sufficient to correct the error or make good the defects in the work and materials.

31. GENERAL GUARANTEE

- 31.1 Neither the final acceptance or payment by the Owner nor any provision of the Contract Documents, nor partial or entire use of the premises (work) by the Owner shall constitute an acceptance of work not done in accordance with the Contract Documents or relieve the Contractor of liability in respect to any express warranties or responsibility for faulty materials or workmanship. The Contractor shall remedy all defects in the work and pay for all damage to other work, person or property resulting therefrom which shall appear within one year from the date of Final Acceptance unless a longer period is specified. The Owner will give notice of observed defects with reasonable promptness. The Surety shall be bound with and for the Contractor in the Contractor's faithful observance of the General Guarantee.

SECTION 8 SPECIAL CONDITIONS

1. STANDARD DOCUMENTS

- 1.1 Construction shown on the Drawings shall conform to Divisions II and III of the Florida Department of Transportation (F.D.O.T.) *Standard Specifications for Road and Bridge Construction*, dated January 2020, and the F.D.O.T. *Standard Plans*, dated FY 2019-2020, except when superseded as otherwise noted.

2. COORDINATION OF PLANS AND SPECIFICATIONS

- 2.1 In case of discrepancy, computed dimensions shall govern over scaled dimensions; Drawings and Specifications shall take precedence as indicated in Article 2 of the General Conditions. The Contractor shall seek any required clarification in writing well in advance of actually needing the response (at least seven working days).
- 2.2 In the event of any conflicts or discrepancy between the Contract Documents, the governing order by priority of the documents shall be interpreted as follows:
- a) Change Orders
 - b) Addenda (with those of later date having precedence over those of earlier date)
 - c) Contract
 - d) Special Conditions
 - e) Drawings
 - f) F.D.O.T. Standard Plans (FY 2019-2020)
 - g) Supplemental Specifications
 - h) F.D.O.T. Standard Specifications, January 2020
 - i) General Conditions
 - j) Instructions to Bidders

The Contractor voluntarily acknowledges to understand and follow the above order of priority for any and all conflicts or discrepancies in the Contract Documents.

3. REPRESENTATIVE FOR CONTRACT ADMINISTRATION

- 3.1 Notice is hereby served that Susan Hall, ASLA is the Landscape Architect (Engineer) for the Design, Drawings, and Specifications. Routine daily construction observations, inspections, and routine acceptance of specified materials and workmanship remain the responsibility of the Owner or others the Owner designates for such work; e.g., the Construction Engineering Inspector. Additional details concerning

contract administration is located throughout the Contract Documents.

4. LAYING OUT THE WORK

- 4.1 Prior to commencement of construction, the vertical and horizontal controls have been established throughout the site which the Contractor shall use in setting out the work. The Contractor shall be responsible for establishing all lines and grades together with all reference points, as required by the various trades for all work under this Contract. All required layout shall be done using competent and experienced personnel under the supervision of a Land Surveyor registered in the State of Florida.
- 4.2 The Contractor shall provide all labor and instruments and stakes, templates, and other materials necessary for marking and maintaining all lines and grades. The lines and grades shall be subject to any checking the Owner may decide necessary. The Contractor shall maintain vertical and horizontal controls for use by utilities for utility relocation purposes where necessary.
- 4.3 The Contractor shall employ only competent personnel and utilize only standard survey equipment in performing layout work. G.P.S. equipment is not allowed. He shall not engage the services of any person or persons in the employ of the Owner for performance of layout work.
- 4.4 Adequate field notes and records shall be kept as layout work is accomplished. These field notes and records shall be available for review by the Owner as the work progresses, and copies shall be furnished to the Owner at the time of completion of the project.
- 4.5 Any inspection or checking of the Contractor's field notes or layout work by the Owner, and the acceptance of all or any part thereof, shall not relieve the Contractor of his responsibility to achieve the lines, grades and dimensions shown in the Drawings and Specifications.
- 4.6 Prior to final completion of the project, the Contractor shall mark in a permanent manner on the surface of the completed work, all horizontal control points originally furnished by the Owner.
- 4.7 Where grades and/or cross sections are connected to existing improvements, elevations shall be checked to ensure a proper matching of these improvements. Any discrepancies between actual field conditions and the Drawings shall be reported to the Owner prior to installation or construction of the proposed improvements.
- 4.8 No separate cost item is provided for layout of the work, the cost of which shall be included in the unit prices of items in the Bid.

5. USE OF EXPLOSIVES

- 5.1 No blasting shall be done except upon approval by the Owner and the governmental agencies or political subdivisions which have jurisdiction. When the use of explosives is approved by the Owner as necessary for the execution of the work, the Contractor shall use the utmost care so as not to endanger life or property, and assume responsibility for any such damage resulting from his blasting operations, and whenever directed, the number and size of the charges shall be reduced. All explosives shall be stored in a secure manner, and all such storage places shall be marked clearly, "*DANGEROUS EXPLOSIVES*", and shall be in care of competent watchmen. All permits required for the use of explosives shall be obtained by the Contractor at his expense. All requirements of the governmental agencies issuing permits shall be observed.

6. USE OF PUBLIC STREETS

- 6.1 The use of public streets and alleys shall be such as to provide a minimum of inconvenience to the public and to other traffic. Any earth or other excavated material spilled from trucks shall be removed by the Contractor, and the streets cleaned to the satisfaction of the Owner.
- 6.2 Prior to construction, the Contractor shall designate all proposed haul roads to be used during the life of the project. Any earth or other materials spilled from trucks shall be removed by the Contractor, and streets cleaned to the satisfaction of the Owner. He further shall be responsible for repairs to any damages caused by his operations, prior to final payment.

7. CARE OF TREES, SHRUBS AND GRASS

- 7.1 The Contractor shall be fully responsible for maintaining in good condition all cultivated grass plots, trees and shrubs. Where maintained shrubbery, grass strips or area must be removed or destroyed incident to the construction operation, the Contractor shall, after completion of the work, replace or restore to the original condition all destroyed or damaged shrubbery or grass areas. Tree limbs that interfere with equipment operation and are approved for pruning shall be neatly trimmed and the tree cut coated with a tree paint. Contractor to trim vegetation to obtain minimum 10' vertical clearance above sidewalk at right of way line, as necessary.

8. OBSTRUCTIONS

- 8.1 All water pipes, storm drains, force mains, gas or other pipe, telephone or power cables or conduits, curbs, sidewalks, all house services and all

other obstructions, whether or not shown, shall be temporarily removed from or supported across utility line or storm drain excavations. Where it is necessary to temporarily interrupt house or business services, the Contractor shall notify the house owner or occupant, both before the interruption, and again immediately before services is resumed. Before disconnecting any pipes or cables, the Contractor shall obtain permission from their owner, or shall make suitable arrangements for their disconnection by their owner. The Contractor shall be responsible for any damage to any such pipes, conduits or cables, and shall restore them to service promptly as soon as the work has progressed past the point involved. Approximate locations of known water, sanitary, drainage, power, telephone and gas installations along the route of new pipelines or in the vicinity of new work, but must be verified in the field by the Contractor. The Contractor shall locate and uncover these pipes, ducts, cables, etc., carefully, by hand, prior to installing new utility or storm drain lines, or removing existing lines. Any discrepancies or differences found shall be brought to the attention of the Owner and the Construction Engineering Inspector in order that necessary changes may be made to permit.

9. DAMAGE TO EXISTING STRUCTURES AND UTILITIES

- 9.1 The Contractor shall be responsible for making good all damage to pavement beyond the limits of this Contract, buildings, telephone or other cables, water pipes, sanitary pipes, or other structures, which may be encountered, whether or not shown on the Drawings.
- 9.2 Concrete saddles shall be installed on all drainage pipe less than 18" over a water or sewer pipe. The cost for concrete saddles shall be measured and paid under the bid item for miscellaneous concrete.
- 9.3 Information shown on the Drawings as to the location of existing utilities has been prepared from the most reliable data available to the Engineer of Record. This information is not guaranteed, however, and it shall be the Contractors' responsibility to determine the location, character and depth of any existing utilities. The Contractor shall assist the utility companies, by every means possible, to determine said locations. Extreme caution shall be exercised to eliminate any possibility of any damage to utilities resulting from his activities.

10. NOTIFICATION TO UTILITY COMPANIES

- 10.1 The excavators shall comply with Florida Statute 553.851 regarding notification of existing gas and oil pipeline company owners, and shall also notify "Sunshine State One-Call" at 1-800-432-4770 prior to excavating. Evidence of such notice shall be furnished to the Owner prior to excavating.

11. SUBSURFACE INVESTIGATION

- 11.1 The Contractor shall be responsible for having determined to his satisfaction, prior to the submission of his Bid, the nature and location of the work, the conformation of the ground, the character and quality of the substrata, the types and quantity of materials to be encountered, the nature of the ground water conditions, the character of equipment and facilities needed preliminary to and during the execution of the work, the general and local conditions and all other matters which can in any way affect the work under this contract. The prices established for the work to be done will reflect all costs pertaining to the work, insofar as this information is reasonably ascertainable from an inspection of the site, exploratory work done by the Engineer of Record, and drawings and specifications included in the bid package. The Engineer of Record and Owner assume no responsibility for any conclusions or interpretations made by the Contractor based on information made available by the Engineer of Record. Nor does the Engineer of Record or Owner assume responsibility for any understandings reached or representations made concerning conditions that can affect the work by any of the Contractor's employees or agents unless that understanding or representation is expressly stated in the Contract Documents. Any claims for extras based on known substrata or ground water table conditions will not be allowed.
- 11.2 The soil borings delineated in the Drawings are made available as information only and solely for the convenience of bidders. The Owner and/or Engineer of Record does not warrant or guarantee the accuracy or correctness of this material with respect to actual subsurface conditions. Additional information on subsoil conditions has been obtained for use in the design by the Engineer of Record and is made available in these documents.
- 11.3 Differing Site Conditions:
- (a) During the progress of the work, if subsurface or latent physical conditions are encountered at the site differing materially from those indicated in the contract or if unknown physical conditions of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in the work provided for in the contract, are encountered at the site, the party discovering such conditions shall promptly notify the other party in writing of the specific differing conditions before they are disturbed and before the affected work is performed. Any purported utility conflicts shall be included in these notification requirements.
 - (b) Required written notification shall be provided no later than twenty-four hours after discovery of aforementioned differing site

conditions.

- (c) Upon written notification, the Owner will investigate the conditions, and if he determines that the conditions materially differ and cause an increase or decrease in the cost or time required for the performance of any work under the contract, an adjustment, excluding loss of anticipated profits, will be made and the contract modified in writing accordingly. The Owner will notify the Contractor whether or not an adjustment of the contract is warranted.
- (d) No contract adjustment which results in a benefit to the Contractor will be allowed unless the Contractor has provided the required written notice.
- (e) No contract adjustment will be allowed under this section for any effects caused to any other projects.

12. CONTRACT TIME

- 12.1 Contract time is calculated on a Calendar Day basis. A Calendar Day is any day, including Saturdays, Sundays and Holidays, as defined below, and regardless of the weather conditions. Approved work hours on this contract shall consist of daytime work and allowable night work as further defined below.
- 12.2 Daytime work shall be between 7:00 a.m. and 7:00 p.m. Monday through Friday. During daytime work, the generation of noise levels measured at the property/right of way line shall be limited to 98 dB (A-weighted). The Contractor shall not be responsible for inspection fees for work during daytime work.
- 12.3 Allowable night work, as shown on the Drawings, shall require written notification to the Owner seventy-two hours in advance of starting the work. Allowable night work tasks include but are not limited to sod removal, preparation of planting pits and installation of landscape material, planting mix, mulch, fertilizer and soil amendments, pre-emergent herbicide, mycorrhizal fungal inoculant and tree and palm bracing. Allowable night work shall limit the generation of noise levels at the property/right of way line to 55 dB (A-weighted) from 7:00 pm to 7:00 am. The Contractor shall monitor his construction noise and pay all costs associated in acquiring and using noise abatement equipment. The cost of which is incidental to the Contract. The Contractor shall not be responsible for inspection fees for work during allowable night work.
- 12.4 Contractor is not to schedule work on Saturdays, Sundays and Holidays during the course of this Contract, except in the event of an emergency in

accordance with "Protection of Property and the Public". If such work is required, the Contractor is to notify the Owner as soon as possible.

- 12.5 If work operations occur outside of the approved work hours (overtime work), the Contractor shall obtain written permission of the Owner at least seventy-two hours in advance of starting such work, and shall set forth the proposed schedule for overtime work to give Owner ample time to arrange for personnel to be at the site of the work. Contractor shall pay for the additional charges to the Owner on account of such overtime work. Such additional charges shall be a subsidiary obligation of Contractor and no extra payment shall be made by Owner on account of such overtime work. The Contractor shall pay the cost of the Owner's Construction Engineering Inspector at a rate of \$100 per hour, per operation, for observation of any overtime work which exceeds the approved work hours and \$150 per hour for Holidays worked. Overtime work costs for personnel employed by the Owner's independent testing laboratory shall be calculated in accordance with the terms of the respective contracts with the Owner.

Each accumulated ten-hour segment of overtime work may deduct one calendar day from the contract time at the Owner's discretion.

- 12.6 No work shall be performed on Owner Holidays or as observed by the Owner as follows:

Owner Holiday	Calendar Date
New Year's Day	January 1
Martin Luther King Jr.'s Birthday	3 rd Monday in January
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	1 st Monday in September
Veteran's Day	November 11
Thanksgiving	4 th Thursday in November
Day after Thanksgiving	4 th Friday in November
Christmas Eve Day	December 24
Christmas	December 25

If any Holiday falls on a weekend, the preceding Friday or following Monday will be observed as the Holiday. If any Holiday falls on a Saturday, the preceding Friday will be observed as a Holiday. If any Holiday falls on a Sunday, the following Monday will be observed as a Holiday.

13. AMOUNT OF BORROW OR EXCESS

- 13.1 The Contractor is responsible for calculating his own estimate of earthwork shrinkage to determine the amount of borrow material or excess

material involved in this project. Shrinkage calculations shall be submitted to the Owner for approval prior to commencement of earthwork.

- 13.2 Any excess material resulting from construction of this project shall become or remain the property of the Contractor, and shall be disposed of by the Contractor as specified in the contract documents.

14. NOTIFICATION OF PROPERTY OWNERS

- 14.1 Property owners along the project route or any other street or driveway who may be affected by construction operations shall be notified by the Contractor at least 24 hours prior to such construction for each construction activity which may directly affect property owners and/or their access; or as otherwise may be necessary as provided for in these specifications. Such notification shall be documented and copy provided to the Owner.

15. SIGNS, MAILBOXES, ETC.

- 15.1 Two weeks prior to relocating or removing privately-owned signs, mailboxes, landscaping, etc., as called for in the Drawings and Specifications, the Contractor shall notify the property owner to provide said owner the opportunity to remove his sign(s), etc. himself. Such notification shall be documented and copy provided to Owner. The Owner shall provide the Contractor with a reasonably up-to-date list of affected property owners upon Contractor's request. Contractor shall allow up to 21 days for delivery of this list. This requirement is in addition to NOTIFICATION OF OWNERS (above). Traffic control and information sign removal and placement shall be governed by the drawings and the technical specifications for traffic signalization, signing, and pavement markings, contained elsewhere in the Contract Documents. Relocation or removal of privately-owned signs and mailboxes is considered incidental to the project and has no separate pay item. Privately owned signs shall be relocated outside of the right of way on private property. In areas where the contractor encounters existing mail boxes conflicting with new construction, the contractor is to relocate the mail box to meet U.S. Postal service requirements.

16. LANDSCAPING

- 16.1 Contractor shall replace any vegetation which is destroyed by construction activities, not identified within the limits of clearing and grubbing, with like vegetation. The cost to replace any vegetation outside the limits of clearing and grubbing is incidental to the contract and does not have a separate pay item. This expense shall be the responsibility of the Contractor.

17. UTILITIES AND OTHER INFRASTRUCTURE

- 17.1 Electric Service Lines: Where electrical fixtures or other electrical service lines, which are not owned by Florida Power & Light (FP&L), are located within the right of way, they shall be removed, after coordination with the utility owner. Where such service lines cross the referenced limits, they shall be sealed/terminated pursuant to NEC Standards. The Contractor shall notify utility owners in writing promptly and accordingly. Where electrical systems outside the referenced limits are disturbed, they shall be restored (including sleeves under the driveways).
- 17.2 Utility Poles, Electric, Communication Lines, Sanitary Sewer, Water Lines, and Gas Lines: Where any existing utility installation is in conflict with the installation of any drainage structures, roadway, swales or other utilities, the Contractor is to arrange, with the concerned utility owner(s), for the relocation or adjustment of their facilities. Such notice shall be provided to the utility owner at least fourteen days prior to the date that work in the conflict area will commence. The Contractor shall closely coordinate all construction exposing or destroying utilities, even if such utilities are not shown in the Drawings. Expense for such restoration is incidental to the contract, and does not have a separate pay item, unless otherwise indicated elsewhere in the specifications. Contractor is to hold poles outside of right of way to construct project, or pay utility to hold poles. These costs are incidental to the project and do not have separate pay items.
- 17.3 Intelligent Transportation Systems (I.T.S.): Where any existing I.T.S. installation is in conflict with the installation of drainage structures, roadway, swales or other utilities, the Contractor is to arrange, with the concerned I.T.S. owner(s), for the preservation, relocation or adjustment of their facilities. Such notice shall be provided to the I.T.S. owner at least thirty days prior to the date that work in the conflict area will commence. The Contractor shall closely coordinate all construction exposing the I.T.S. facilities in conflict. The cost to preserve the existing I.T.S. facilities are incidental to the contract and does not have a separate pay item.
- 17.3 Irrigation Systems: Irrigation piping, fittings, etc. which are located within the right of way or other public right of way shall be removed. Where such pipes are cut, a cap shall be installed to seal the pipe which is undisturbed and outside the referenced limits. The Contractor shall give written notice to the property owner at least seven days prior to initiating these procedures, giving the owner the option to remove the system. Where irrigation systems outside of the referenced limits are disturbed, they shall be restored (including sleeves under driveways). Expense for such restoration is incidental to the contract and does not have a separate

pay item.

- 17.4 All utilities, unless otherwise shown, are to be relocated by the respective utility company. However, the Contractor shall notify, coordinate and provide assistance as necessary to ensure a timely and efficient relocation of existing utilities. Such duty of coordination by the Contractor shall require the utmost due diligence and communications, including meetings, with the utilities. This work is incidental to the project and no separate payment shall be made.

18. ALTERNATE METHODS OF COMPACTION

- 18.1 It may become necessary to discontinue or prohibit the use of vibrating steel wheel compaction machinery in part or all of the work. Therefore, the Contractor is to be prepared to compact loose soils, materials, etc., as required by the Contract Documents by using methods other than those which require the use of such equipment (either single steel wheel or dual steel wheels).

19. FIBER OPTIC LINES

- 19.1 The Contractor is required to consult with Owner and the owner of any fiber optic lines which may be found within the work premises, prior to any construction activities which are scheduled to take place over, around or under such lines in conflict with the installation of drainage structures, the roadway, swales or other utilities, the Contractor is to arrange with the concerned fiber optic line owner relocation of their facilities. Such notice shall be provided to the fiber optic line owner at least thirty days prior to the date that road work in the conflict area will begin. The Contractor shall closely coordinate all construction with all fiber optic line owners to prevent unnecessarily exposing or destroying any facilities, even if such facilities are not shown in the Drawings. The Drawings may be revised or adjusted to accommodate the requirements of the owner of the fiber optic lines as an engineering revision. Any revisions to the drawings would be done at the expense of the owner of the fiber optic lines.

20. PROPERTY CORNER AND REFERENCE MONUMENT REPLACEMENT

- 20.1 The Contractor shall protect from any damage or movement, all survey permanent reference markers, bench marks, triangulation points, property corners, etc. If the work requires the relocation or movement of such a monument, the Contractor shall notify the Owner of such requirement. All reference monuments, property corners, etc., which are disturbed by construction shall be restored and/or replaced by a surveyor, licensed in the State of Florida, at the Contractor's expense.

21. PERMITS

- 21.1 As indicated in the General Conditions, the Contractor is responsible for obtaining the following permits **as necessary** to construct the project:
- (a) St. Johns River Water Management District (SJRWMD) Consumptive Use Permit
 - (b) State of Florida Department of Environmental Protection Generic Permit for Stormwater Discharge from Large and Small Construction Activities (National Pollutant Discharge Elimination System (N.P.D.E.S.) Notice of Intent.
 - (c) Any permit for explosives, if applicable.
- 21.2 The Owner has obtained the following permits: None.
- 21.3 The Contractor shall follow all conditions of these permits relating to the construction of the project.
- 21.4 Unintentional Interactions with Protected Species: If the Contractor encounters any protected species during construction, they are to follow F.D.O.T. Standard Specifications for Roadway and Bridge Construction Section 7-1.4.

22. ROADWAY CONNECTIONS

- 22.1 Development of property adjacent to the project limits may necessitate driveway or turn out connections in addition to those shown in the Drawings. The Owner will direct the Contractor where to place any such connections. If required, additional payment shall be made under the established unit cost for each individual item of work performed, via a Construction Contract Modification. The Contractor is responsible for verifying all existing conditions prior to Bid.

23. CLEAN DEBRIS DISPOSAL

- 23.1 Contractor is to dispose of clean debris in conformance with Brevard County Code of Ordinances, Article 1, Chapter 12, and as amended by Ordinance Number 90-11. Contractor is to supply all materials, equipment, labor, fees, expenses, etc. associated with compliance with this Article without a separate pay item. Expenses for such disposal will be borne by the Contractor as incidental to disposal of clearing and grubbing materials.

24. DISPOSITION OF DEBRIS

- 24.1 The Contractor shall remove all unwanted materials and construction debris to a suitable location outside the project limits. Payment for all

materials suitably disposed of shall be made under the Contract Lump Sum price for Clearing and Grubbing.

- 24.2 The Owner may negotiate with the Contractor to dispose of clean debris outside the project limits at a specific location provided by the Owner. The material which may be disposed of at these site(s) will be limited to clean debris as defined by Brevard County Ordinances.

25. SEQUENCE OF OPERATIONS

- 25.1 The Owner shall have the option at the Preconstruction Conference of requiring the following sequence of activity:
- (a) Clearing and Grubbing –During the first fifteen days after issuance of the Notice to Proceed, the Contractor will clear and grub the road right of way as necessary for utility relocations.
 - (b) Utility Relocation – The utility relocation period for this contract is zero days. During the utility relocation period, the Contractor is restricted from working inside any public right of way while utility relocations are performed. This utility relocation period shall begin after the initial clearing and grubbing period, as indicated in 26.1 (a) above to relocate utilities along the project. The utility relocation period is for all utilities and infrastructure, as identified in Article 17 of Section 8.
 - (c) The Contractor may request, in writing, that the Owner allow work to proceed inside public road right of way during the utility relocation period by demonstrating and documenting the following:
 - 1) That materials and equipment are readily available to perform the work;
 - 2) That any work will not adversely affect or conflict with utility relocation activities;
 - 3) That written concurrence from the appropriate utility companies is received;
 - 4) The Contractor shall provide the Owner a written schedule of any and all activities within the intended area
 - 5) The Contractor shall confirm the understanding that any delays during this period are not subject to time extensions;
 - 6) The Contractor shall clearly demonstrate to the County how allowing him to work inside the right of way during the utility

relocation period will benefit the County.

- (d) Project Construction – After the utility relocation period, the Contractor shall complete all remaining construction. The Contractor shall receive no additional compensation for this Sequence of Operations. The Contractor shall note that the Project may be wet in the rainy season and should plan accordingly.
- (e) The Contractor shall be aware that not all utilities will be relocated during this time frame. The Contractor is required to coordinate with the utility owners that were not able to relocate their utilities due to existing utilities or drainage infrastructure that were not able to be taken out of service until the new utility lines associated with the proposed improvements have been installed. It shall be the responsibility of the Contractor to identify these areas and include any costs associated with this into mobilization.

25.2 The Contractor shall construct retention ponds and associated drainage systems before construction of the roadway embankment in order to implement the final drainage design as soon as possible during construction and to enhance water quality of stormwater discharge during construction. A drainage conveyance system must be provided and maintained at all times during construction.

25.3 Interim Restoration: All excavations shall be backfilled and compacted as specified by the end of each working day. For excavations within existing paved areas, base material shall be spread and compacted to provide a relatively smooth surface free of loose aggregate material. At the end of each work day, the completed base course shall be prime coated and given a light application of clean sand and opened to traffic. At the end of each work week an interim asphaltic surface course shall be completed and opened to traffic. The Contractor shall coordinate his activities to allow sufficient time for the Owner to perform achieve density tests and inspections. All driveway and parking lot cuts shall be backfilled, compacted, and base material spread and compacted immediately after any utility installation. The contractor shall coordinate with the individual property owners prior to removing any driveway or parking lot sections. A utility crossing within an existing public or private roadway or right of way shall be patched with asphalt at the end of each work day.

25.4 Coordination with others: The Contractor shall arrange his work and dispose of his materials so as not to interfere with the operations of other contractors or utilities engaged upon adjacent work and to join his work to that of others in a proper manner, in accordance with the spirit of the Drawings and Specifications, and to perform his work in the proper

sequence in relation to that of other contractors or utilities. Each contractor or utility will be responsible for any damage done by him or his agents to the work performed by another contractor or utility.

26. AS-BUILT SURVEY DRAWINGS

- 26.1 During the entire construction operation, the Contractor shall maintain records on-site of all deviations from the Drawings and Specifications. The As-Built Survey Drawings shall correctly and accurately show all newly constructed improvements, including all changes and deviations from the work, made during construction to reflect the work as it was actually constructed. Along with the as-built data, the As-Built Survey Drawings shall also include the design data to allow for a direct comparison. Sufficient pre-existing, non-modified improvements shall be shown as to provide a complete drawing after construction. As-Built Survey Drawings shall be prepared and certified by a registered Surveyor and Mapper licensed in the State of Florida.

The As-Built Survey Drawings shall conform to the applicable standards in the F.D.O.T. Construction Project Administration Manual (CPAM) Section 5.12 *Final As-Built Plans Process*. The sum of \$5,000 will be withheld from the contract price, beginning with Pay Estimate #1, until delivery of the approved set of As-Built Survey Drawings for the Landscape Installation is made to the Owner. This \$5,000 amount shall be in addition to the contract retainage withheld by the Owner as provided herein.

Brevard County Public Works Finance and Contracts Administration
Public Works Survey & Mapping Division Requirements and Standards of Practice Chapter 5J-17 F.A.C. and shall be neat and legible.

The Contractor's surveyor will sign and seal the As-Built Survey Drawings and certify to the Brevard County Board of County Commissioners. Three signed and sealed As-Built Survey Drawings are required along with a digital copy in Adobe PDF format and a digital CAD file using the latest version of Autodesk ACAD as approved by Brevard County Surveying and Mapping. A digital copy of the Construction Plans in Autodesk ACAD format will be provided to the Contractor for the production of the As-Built Survey Drawings upon request.

- 26.2 No separate pay item is provided for As-Built Survey Drawings. The cost of which is incidental to the Contract.

27. SAMPLING AND TESTING

- 27.1 Acceptance of material and work will be made only after the Quality Control sampling and testing set forth in the F.D.O.T. Standard

Specifications have been satisfied. The Contractor shall provide for all required Quality Control sampling and testing. Payment for sampling and testing shall be considered incidental to the cost of the pay item being accepted.

- 27.2 The Owner shall provide for all required Verification sampling and testing set forth in the F.D.O.T. Standard Specifications. The Owner shall have authority to order additional tests as deemed necessary, refuse materials furnished and advise the Contractor of work that appears to be unacceptable.
- 27.3 Any and all tests which have to be repeated because of the failure of the tested material or work to meet specifications shall be paid for by the Contractor. The Owner may conduct other tests, beyond normal testing to confirm quality, etc. If such additional testing fails, Contractor shall be responsible for the cost of the test and removal and replacement of any work and testing of rework, all at his expense. Contractor shall coordinate testing schedules with the Quality Control and Owner's testing labs and Construction Engineering Inspector, 24 hours minimum in advance for the appropriate testing areas. Any and all fees as a result of rescheduling of sampling and/or testing by the Contractor, shall be incurred by the Contractor.

28. TRENCH SAFETY

- 28.1 The Contractor and all subcontractors are to comply with the Trench Safety Act (90-96, Laws of Florida). No additional or separate payment is included for this compliance. All costs associated with this are incorporated in the unit price for those items for which provisions of this requirement apply.

29. DEWATERING

- 29.1 The Contractor shall keep all excavations, pits, trenches and footings free from water from any source (rain, ground, surface, etc.) and protect such areas from damage by any water. The Contractor may temporarily construct dikes, shallow swales, grade or compact areas or use pumping equipment to provide dewatering to prevent damage or erosion or ponding in excavations, etc., or other cleared areas.
- 29.2 All foundations shall be constructed in the dry condition. It should be anticipated that dewatering will be required to facilitate structure/pipe construction. All dewatering well point holes to be sanded and compacted during and after well-point installation. Costs to be included in the various drainage pay items. Failure to provide this work will result in the Contractor being fined \$500 per day, until compliance is met.

Dewatering shall be performed in accordance with Section 455-28 of the January 2020 F.D.O.T. Specifications for Road & Bridge Construction. The Contractor shall anticipate that artesian groundwater flow may occur within foundation excavations. Costs to be included in price of structures and pipes.

- 29.3 To assist the contractor in determining the permits and requirements for conducting dewatering activities for this project, pre-screening of a groundwater well at the location where dewatering takes place will be required. Based on this analysis, dewatering activities should be covered by the Florida Department of Environmental Protection (F.D.E.P.) Generic Permit for Stormwater Discharge from Large and Small Construction Activities.

It shall be the Contractor's responsibility to assure that all requirements of the F.D.E.P. generic permit are met for the duration of the dewatering activities.

Analytical results from any additional sampling conducted as a requirement shall be forwarded to the County upon receipt from the consultant/laboratory.

Copies of initial pre-screening sample results and results from any additional sampling as required by the permit shall be kept on site and available to F.D.E.P. upon request.

- 29.4 **Scope of Work:** The work to be performed under this section shall include the design and installation of a temporary dewatering system until completion of construction to remove surface and/or subsurface waters from structure excavations, pipe trench excavations, or material excavations as required.
- 29.5 **Qualifications:** The temporary dewatering system shall be designed by a firm who regularly engages in the design of dewatering systems and who is fully experienced, reputable and qualified in the design of such dewatering systems. The firm shall have a successful record of operation for a minimum of five years prior to bid date.
- 29.6 **Standards:** The dewatering of any excavation areas and the disposal of water during construction shall be in strict accordance with all local and state government rules or regulations and project construction permit conditions.
- 29.7 It shall be the contractor's responsibility to coordinate with the regulatory agencies to determine which permits are applicable or required.
- 29.8 The contractor shall provide documentation of coverage under F.D.E.P.,

S.J.R.W.M.D. and State of Florida Environmental Health Services permits as required for dewatering activities to the County's project manager 10 days prior to the start date of the planned dewatering activities

- 29.9 System Design: The Contractor shall be responsible for the design of the dewatering system.
- 29.10 The dewatering system shall be developed to the point that is capable of dewatering the site surrounding all structures or utility trenches as shown on the Drawings.
- 29.11 The Contractor shall at all times during construction provide and maintain proper equipment and facilities to remove all water entering excavations, and shall keep such excavations dry so as to obtain a satisfactory undisturbed subgrade foundation condition until the fills, structures or pipes to be built thereon have been completed to such extent that they will not be floated or otherwise damaged by allowing water levels to return to natural levels.
- 29.12 The Contractor shall obtain permission to use any storm sewers, or drains, for water disposal purposes from the Owner and any applicable regulatory agencies. Any requirements and costs for such use shall be the responsibility of the Contractor. However, the Contractor shall not cause flooding by overloading or blocking up the flow in the drainage facilities, and the Contractor shall leave the facilities unrestricted and as clean as originally found. Any damage to facilities shall be repaired or restored as directed by the Owner, at no cost to the Owner.
- 29.13 The Contractor shall continuously monitor and maintain dewatering operations to ensure erosion control, stability of excavations and constructed slopes, that excavation does not flood, and that damage to subgrades and permanent structures is prevented.
- 29.14 Dewatering system shall be designed in such a manner as to preserve the undisturbed bearing capacity of the subgrade soils at the proposed structures or utilities and to preserve the integrity of any adjacent structures.
- 29.15 The Contractor is responsible for obtaining test borings and conducting other exploratory operations necessary for dewatering.

30. EXISTING CONDITIONS - VIDEO RECORDING

- 30.1 Contractor shall provide the Owner with one copy of video records of the existing conditions prior to construction and prior to installation of the erosion and sediment control items. This video submittal shall include both the video recording and a written log of segments and pre-existing

conditions found. The video shall show in a clear manner all of the following:

- (a) All existing features within the right of way.
- (b) All existing features within the temporary construction easements.
- (c) All existing features within the permanent easements.
- (d) All existing features adjacent to any construction.
- (e) Any other specific items requested by the Owner

Details of the video shall be such that the following examples shall be clear and visible:

- a) Cracks in walls, sidewalks, driveways, roads and drainage structures.
- b) Condition of fencing.
- c) Condition of planted areas and types of vegetation.
- d) Condition of sodded areas.
- e) Condition of sprinkler systems and associated controls and wiring.
- f) Condition of signs.
- g) Condition of lighting and associated wiring.
- h) Condition of mailboxes.

Significant detail of any pre-existing damages to physical features shall be shown. The coverage of the video should include the limits of effects of the use of vibratory rollers.

- 30.2 This video record shall be presented to the Owner within five days of the Notice to Proceed. A copy shall be kept in the Contractor's field office. The Contractor cannot start any other work until the Owner has received and approved the video record.

31. LIMITS OF CONSTRUCTION

- 31.1 The limits of construction are within the rights of way and easements, as shown. No work outside the rights of way and easements is allowed.

32. CONTRACTOR'S SUPERVISION

- 32.1 The Contractor's superintendent and foreman and subcontractor's superintendent and foremen, shall speak, write, read, and understand English, and at least one responsible person who speaks and understands English shall be on the project during all working hours. A list of all superintendent names and office/emergency phone numbers shall be provided to the Owner during execution of the Contract. The Contractor's responsible person for supervision for emergencies shall speak and understand English.

33. CONTRACTOR'S RESPONSIBILITIES

- 33.1 The Owner and their Representatives/Agents shall not be responsible for any actions taken by the Contractor, negligence of the Contractor, and/or the failure of the Contractor to maintain safe working conditions, during the Contractor's performance of the work included in this Contract.

The Contractor shall be solely responsible for the quality and quantity of work performed; the construction means, methods, procedures, techniques, and sequences of construction performed in the execution of the work; and for insuring that the work is performed in accordance with the Contract Documents.

Further, the Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the work, materials, and equipment used in the performance of the work. The Contractor shall be responsible for taking all necessary precautions for the safety of and shall provide the protection necessary to prevent damage, injury, or loss to all persons on the work site; all persons who may be affected by the work either directly or indirectly; all the work, materials, and equipment to be incorporated therein, whether in storage on or off the site; and all property at the site or adjacent thereto including, but not necessarily limited to trees, shrubs, lawns, sprinklers, fences, walks, driveways, pavement, roadways, structures, utilities, etc.

34. CONTRACTOR'S DAILY CONSTRUCTION REPORTS

- 34.1 The Contractor is required to prepare a daily report of their account of the work performed. The daily report should at a minimum contain an accurate account of the number of employees and equipment on site and a detailed description of the work performed. The Contractor shall provide copies of all daily reports to the Owner on a weekly basis as a submittal. Upon review of the daily reports by the Owner for accuracy, the Owner will notify the Contractor of any discrepancies in writing.

Should the Contractor not submit daily reports as required above, such failure may be deemed a material breach to the Contract.

No separate cost item is provided for Contractor's Daily Construction Reports; the cost of which shall be incidental to the Contract.

35. SAFETY AND HEALTH STANDARDS

- 35.1 Federal Safety and Health Standards: It is a condition of this Contract and shall be made a condition of each subcontract entered into pursuant to this Contract, that the Contractor and any Subcontractor shall not

require any laborer or mechanic employed in the performance of the contract to work in surroundings or working under conditions, which are unsanitary, hazardous, or dangerous to his health or safety, as determined under construction safety and health standards (Title 29, Code of Federal Regulations, Part 1518, published in the Federal Register on 04/17/71) promulgated by the United States Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (83 Stat. 96)

- 35.2 Copies of these safety and health regulations may be obtained from the United States Department of Labor, Post Office Box 35062, Jacksonville, FL 32202. The Department of Labor office is located in the U.S. Federal Office Building, 440 West Bay Street, Jacksonville, Florida; phone number (904) 791-2895.

36. PROTECTION OF PRIVATE PROPERTY

- 36.1 It shall be incumbent upon the Contractor to protect private property. The Contractor shall notify each property owner at least seven days prior to beginning his construction operations.

37. MAINTENANCE OF DRAINAGE

- 37.1 Construction methods shall be such that the drainage system on this project site shall not be impeded during any rainfalls and shall be placed into a functional service at the end of each work day and shall also be functional on weekends. The Contractor shall be responsible for the maintenance of the drainage system throughout the contract period.

38. STAGING AREA

- 38.1 The Contractor shall make arrangements and maintain, at his own expense, any staging areas necessary for storage of materials, equipment and personnel. Contractor is advised that such areas may not be available within the limits of the construction area. Acquisition and restoration of such areas are the Contractor's responsibility. A letter of permission is required from the property owner prior to mobilizing on the site and a letter of satisfaction will be required from the owner prior to final payment.

The protection of stored materials shall be the Contractor's responsibility and the County shall not be liable for any loss of materials, by theft or otherwise, nor for any damage to the stored materials. No payment shall be made for stored materials.

All applicable local and state regulations regarding hauling of materials, and use of public streets shall apply. Contractor shall be responsible for

obtaining and paying for any permits necessary for this portion of the project.

39. PROJECT SIGNS

- 39.1 Two signs shall be furnished, installed and maintained by the Contractor at a location to be determined by the Owner. The sign shall be approximately 4 feet by 8 feet in size. The project name shall be at least 4" tall and extend across the width of the sign. No lettering on the sign shall be less than 2.5" tall.

The sign shall contain the following:

- (a) Project name and contract amount
- (b) Owner, Engineer of Record and Contractor
- (c) Owner's logo
- (d) The applicable Commissioner's name and District shall be on the sign, if desired by the Commissioner.

Before fabrication of the sign, the Contractor shall submit the sign layout to the Owner for approval. The cost for these signs is incidental to the contract.

40. ADJUSTMENTS TO INLETS, MANHOLE TOPS, AND OTHER STRUCTURES

- 40.1 It will be the Contractor's responsibility to ensure that all inlets, manhole tops, and other structures are installed to the proper grades, slopes, and lines relative to the proposed roadway so that the final surface course provides a smooth riding surface which conforms to the tolerances outlined in the F.D.O.T. Standard Specification.
- 40.2 Tolerance testing for all base courses, intermediate, and final surface courses will be conducted on this project as directed by the Engineer of Record. Therefore, it will be the Contractor's responsibility to adjust inlets, manhole tops, and other structures in addition to base courses, intermediate, and final surface courses as necessary to ensure that compliance with all tolerances is attained.
- 40.3 There will be no separate pay item for any final adjustments which may be required to bring inlets, manhole tops, other structures, base courses, intermediate and/or final surface courses within the tolerances for the roadway grades, slopes, and lines. The costs for this work must be included in the pay items for inlets, manholes, etc. in the Bid.

41. ADJUSTMENTS OF UTILITY CASTINGS, COVERS AND BOXES

- 41.1 All existing utility castings, including valve boxes, junction boxes, manholes, hand holes, pull boxes, inlets and similar structures in the areas of construction that are to remain in service shall be adjusted by the Contractor to bring them flush with the surface of the finished work.
- 41.2 The Contractor shall coordinate the utilities to ensure proper construction sequencing. Contractor shall make available survey reference markers to the various utility companies.

42. PAYMENT FOR UTILITIES

- 42.1 The Owner will not furnish gratuitously to the Contractor any utility service whether water, sewerage, telephone, electricity, gas or other if such services are available from the Owner.
- 42.2 The Contractor shall obtain the necessary utility service by making application for the service and paying such fees and charges deemed appropriate by the utility owner.

43. SALVAGE

- 43.1 All serviceable material salvaged from connections or cut-ins to existing systems, removal of existing facilities, etc., shall remain the property of the Owner. The Contractor shall remove all salvaged materials from the construction site, as work progresses, and store them in a place designated by the Owner for this purpose. Under no circumstances are salvaged materials to be re-used in this project unless indicated on the Plans and/or specified herein or directed by the Owner.

44. CONTRACTOR'S WORK

- 44.1 The Contractor shall perform, at a minimum, forty percent of the work, excluding specialty work. The value of materials supplied by the Contractor for installations by any subcontractor(s) shall be included in the determination as part of the work.

45. CONSTRUCTION SCHEDULE

- 45.1 General: Preface each construction schedule as follows:
 - 1. Project Name
 - 2. Contract Number
 - 3. Contractor
 - 4. Original contract time allowed or completion date
 - 5. Type of construction schedule (initial or update)
 - 6. Effective date of the schedule
 - 7. Percent work complete

8. Percent time used

Do not show conflicts with any scheduled activities and sequence of operation requirements in the contract.

Show completion of the work within the contract time.

Allow fourteen calendar days after receipt by the Owner for concurrence of the schedule.

- 45.2 Preliminary Construction Schedule: Submit one printed copy and one PDF of the preliminary construction schedule at least seven calendar days before the Preconstruction Conference to the Owner.

A preliminary construction schedule is a written narrative with a detailed breakdown of all contract activities for the first 45 calendar days after the Notice to Proceed is issued. The preliminary construction schedule shall be concurred by the Owner prior to the issuance of the Notice to Proceed.

- 45.3 Bar Chart Method (B.C.M.): Use the B.C.M. described below to develop the construction schedule for the total contract work. The construction schedule shall be developed using the B.C.M. utilizing Microsoft Project Software or equal.

The B.C.M. construction schedule consists of a progress bar chart and a written narrative

- a. Progress Bar Chart - The following applies to the initial submission and all updates:
- 1) Use a time scale to graphically show the percentage of work scheduled for completion during the contract time.
 - 2) Define and relate activities to the contract pay items.
 - 3) Show all activities in the order the work will be performed, including submittals, approvals, fabrication, and delivery.
 - 4) Show all critical (major) activities that are controlling factors in the completion of the work.
 - 5) Show the time required for each activity and its relationship in time to other activities.
 - 6) Show the total expected time to complete all work.
 - 7) Provide enough space for each activity to permit two additional plots parallel to the original time span plot. Use one space for revision of the planned time span, and one for showing actual time span achieved.

- b. Written Narrative - The following applies to the written narrative:
- 1) Estimate starting and completion dates of each activity.
 - 2) Describe work to be done within each activity including the type and quantity of equipment, labor, and material to be used.
 - 3) Describe the location on the project where each activity occurs.
 - 4) Describe planned production rates by pay item quantities (e.g., cubic yards of excavation per day/week).
 - 5) Describe work days per week, holidays, number of shifts per day, and number of hours per shift.
 - 6) Estimate any periods during which an activity is idle or partially idle. Show the beginning and end dates for reduced production or idle time.
 - 7) Describe expected and critical delivery dates for equipment or material that can affect timely completion of the project.
 - 8) Describe critical completion dates for maintaining the construction schedule.
 - 9) Identify the vendor, supplier, or subcontractor to perform the activity. State all assumptions made in the scheduling of the subcontractor's or supplier's work.

45.4 Schedule Updates:

Submit one copy and one electronic copy (P.D.F.) of an updated construction schedule, including updated written narrative, with each month's Application for Payment and when:

- (a) A delay occurs in the completion of a critical (major) activity.
- (b) A delay occurs which causes a change in a critical activity for B.C.M. schedules.
- (c) The actual prosecution of the work is different from that represented on the current construction schedule.
- (d) There is an addition, deletion, or revision of activities required by a contract modification.

45.5 Contractor's Responsibility.

Contractor shall:

- (a) Determine the sequence of activities for the orderly progression of the Work. Ensure no conflicts with any scheduled activities and sequence of operation requirements in the Contract.
- (b) Determine appropriate time estimates of the detailed construction activities.
- (c) Determine the means, methods, techniques and procedures to be employed in the prosecution of the Work in compliance with the Contract Documents.
- (d) Monitor the Construction Schedule in a timely manner.
- (e) Accurately update and revise the Construction Schedule as project conditions and the Contract Documents may require.
- (f) Consult with his Subconsultant(s) in the preparation and submittal process of the Construction Schedule.
- (g) Allow for his cooperation with the operation of the Owner and the work of other separate Continuing contractors, as applicable.
- (h) Use the schedule to report progress and for determining delays in achieving the project completion date(s).

45.6 Work Plan:

The Contractor shall submit to the Owner a bi-weekly work plan identifying work items expected to be underway during the upcoming bi-weekly period. The work plan shall also indicate recently completed work items. These work items shall be discussed during scheduled construction progress meetings. The Contractor shall always control means and methods, but allow the Owner to provide input at bi-weekly meetings to activities to facilitate communications as to schedules, including maintenance of traffic.

45.7 No separate cost item is provided for construction schedules; the cost of which shall be incidental to the cost of the Contract.

**SECTION 9
SECTION 580 LANDSCAPING**

1. STANDARD SPECIFICATIONS

- 1.1** All work of this Contract shall conform to the applicable Division II and Division III Specifications of the Florida Department of Transportation (F.D.O.T.) Standard Specifications for *Road and Bridge Construction*, January 2020 and Section 580 Landscaping **(REV 1-9-19) (FA 2-12-19) (1-20)**.

References within the F.D.O.T. Standard Specifications to Department or District shall be understood to mean the Owner or its appointed representative.



SPECIFICATIONS PACKAGE
FINANCIAL PROJECT ID(S).428238-2-58-01

DISTRICT FIVE
BREVARD COUNTY

The January 2020 edition of the Florida Department of Transportation Standard Specifications for Road and Bridge Construction of the Construction Details and Materials divisions (Division II & III) are revised, as follows:

I hereby certify that this specifications package has been properly prepared by me, or under my responsible charge, in accordance with procedures adopted by the Florida Department of Transportation.

This item has been digitally signed and sealed by Susan Hall on the date adjacent to the seal. Printed copies of this document are not considered signed and sealed and the signature must be verified on any electronic copies.

Date:	February 5, 2020
State of Florida, License No.	853
Firm/Agency Name:	Susan Hall Landscape Architecture
Firm/Agency Address:	4425 Crooked Mile Road.
City, State, Zip Code:	Merritt Island, FL 32952

LANDSCAPING.

(REV 1-9-19) (FA 2-12-19) (1-20)

The following new Section is added after Section 571:

SECTION 580 LANDSCAPING

580-1 Description.

Install landscaping as indicated in the Contract Documents.

580-2 Materials.

580-2.1 Plants:

580-2.1.1 Sizes: Small plants includes all ground covers, shrubs less than 7 gallon, trees less than 7 gallon, clustering type palms less than 6 foot overall height, cycads t less than 7 gallon, and incidental landscaping.

Large plants include shrubs 7 gallon or greater, trees 7 gallon or greater, all single trunk palms, and clustering type palms 6 foot overall height and greater.

580-2.1.2 Grade Standards and Conformity with Type and Species:

Provide plant materials purchased from Florida commercial nursery stock that comply with all required inspection, grading standards, and plant regulations in accordance with the latest edition of the Florida Department of Agriculture's "Grades and Standards for Nursery Plants."

Florida commercial nursery stock is defined as plants propagated or grown at a Florida commercial nursery or imported to a Florida commercial nursery, made available for sale to the public, and included as inventory for fee. Nursery stock purchased from outside Florida and shipped directly to the project site is not Florida commercial nursery stock. Prior to installation, provide nursery invoices or delivery tickets that include written certification that all nursery stock meets the requirements of this Section.

Unless otherwise specified, the minimum grade for plant material is Florida No. 1. Plant materials must be the specified size and grade at the time of delivery to the site.

Use only plants that are true to type and species, free of fungal infection and disease, and ensure that the plants not specifically covered by Florida Department of Agriculture's "Grades and Standards for Nursery Plants" conform in type and species with the standards and designations in general acceptance by Florida nurseries. Submit a list of nurseries where plants are tagged, including contact information and location. The Engineer may visit the nursery sites to inspect representative samples and lock tag the example plant material.

A minimum of two plants of each species on each shipment must be shipped with tags stating the botanical nomenclature and common name of the plant. Should discrepancies between botanical nomenclature and common name arise, the botanical name will take precedence.

580-2.2 Inspection and Transporting: Move nursery stock in accordance with all Federal, State, and Local Rules and Regulations. For each shipment of nursery stock, provide the nursery's General Nursery Stock Inspection Certificate with as required in Chapter 5B-2, F.A.C.

580-2.3 Water: Meet the requirements of Section 983.

580-2.4 Mulch: Provide and install mulch in accordance with the Contract Documents.

580-2.5 Soil Enhancement:

Enhance soil in accordance with the Contract Documents.

580-3 Worksite Landscape Supervisor.

Provide a Worksite Landscape Supervisor to directly oversee all landscape installation. The Worksite Landscape Supervisor must be a Certified Landscape Technician or Certified Landscape Contractor in accordance with the Florida Nursery Growers and Landscape Association (FNGLA) or a State of Florida Registered Landscape Architect. Provide verification at the preconstruction meeting.

580-4 Installation.

580-4.1 Installation Plan: At the preconstruction meeting, provide an installation plan for review and comment. Describe the methods, activities, materials, and schedule to achieve installation as described in this Section. Include a schedule for monthly inspections and reports described in 580-4.9. Include a Schedule of Values for each item on the Tabulation of Quantities/Plant List. Begin installation after Installation Plan is accepted by Engineer.

580-4.2 Delivery: All materials must be available for inspection before installation.

580-4.3 Layout: The locations of plants as shown in the Contract Documents are approximate. At no cost to the Department, adjust final locations when directed by the Engineer to accommodate unforeseen field conditions or to comply with safety setbacks and requirements. Mark proposed mowing limits, planting beds and individual locations of trees and palms as shown in the Contract Documents for the Engineer's review, prior to excavation or planting.

Make no changes to the layout, or any variations of materials from the Contract Documents without the Engineer's approval.

580-4.4 Soil Drainage: Planting holes and beds must drain sufficiently. Notify the Engineer of drainage or percolation problems before plant installation.

580-4.5 Installation: Meet the requirements of the Contract Documents.

580-4.6 Maintenance: Maintain plant material to the equivalent visible structural, quality and health characteristics per the Contract Documents.

580-4.7 Site Repair and Restoration: Repair and restore existing areas disturbed by installation or maintenance activities. Where new turf is required to restore and repair disturbed areas, meet the requirements of Section 570.

580-4.8 Disposal of Surplus Materials and Debris: Remove from the jobsite any surplus material unless otherwise directed by the Engineer. Surplus is defined as material not needed after installation of landscaping per Contract Documents. Upon

commencement of landscaping installation, remove daily all debris from the landscape locations described in the Contract Documents.

580-4.9 Reporting: Monthly, document the condition of the landscaping on the form provided by the Engineer and submit to the Engineer.

580-5 Method of Measurement.

The quantities to be paid for will be the items shown in the Contract Documents, completed and accepted.

580-6 Basis of Payment.

Price and payment will be full compensation for all work and materials specified in this Section.

SECTION 10 ESTABLISHMENT PERIOD

1 ESTABLISHMENT PERIOD

1.1 SCOPE OF WORK The work for the landscape Establishment Period shall include the furnishing of all water, labor, materials, equipment, accessories and services necessary to sustain all plant materials in a healthy, vigorous growing condition, free from weeds, diseases, insects, and nutritional deficiencies. All planted areas are to be kept in a continuous healthy, neat, clean and debris free condition for the two-year Establishment Period.

1.2 GENERAL REQUIREMENTS Compliance with the requirements set forth in this specification are mandatory for the Establishment Period.

1.3 DEFINITIONS The term "excluded damage" as used in this document shall refer to damage caused by vandalism, pedestrians, vehicles, animals (except insects and rodents), or other unusual factors. It does not include damage caused by the contractor's actions, lack of reasonable care, pest damage (such as insects), diseases, or plant loss due to lack of water.

1.4 LANDSCAPE ESTABLISHMENT Site visits to planted areas will be performed monthly. The scope of work shall include trimming, pruning and shaping of all trees and palms, removal of tree suckers as well as the defining of bed lines, tree saucers and the removal of all unwanted vegetation.

A. Watering

Supply hand watering as necessary for establishment of planting, to provide relief from drought, to promote optimal growth and to maintain Florida #1 grade quality throughout establishment period.

B. Weed Control

Landscaped bed areas are to be left in a weed free condition after each site visit. At a minimum, perform monthly weeding using a post-emergent chemical herbicide with a pigmented tracer and a 'sedge' specific post emergent chemical herbicide. Weeds in bed areas larger than 6" shall be pulled by hand. Chemical practices shall not be a substitute for hand weeding where the latter is required for complete removal. Perform final weeding ten days prior to Final Completion – Establishment Period.

C. Edging

Maintain mulched areas free of turf. For planted mulched areas, the Contractor shall use a mechanical edge. For turf edging at tree rings and

in non-planted mulched areas, chemical herbicide may be used.

- D. Insect / Disease Control
Supplemental insecticide applications will be provided in addition to the normal preventive program as needed to provide control.
- E. Litter and Debris Removal
Contractor will police the grounds on each service visit to remove trash, debris and fallen tree litter less than 2" in diameter. All litter shall be removed from the site and disposed of off-site.
- F. Water Saucers, Stakes and Guys
Monitor and repair water saucers throughout the Establishment Period. Maintain trees and palms upright, with stakes / guys. Inspect and adjust stakes and guys monthly and after major wind events to ensure stability and plumb condition of trees and palms. Stakes and guys to be removed at the end of the two-year Establishment Period.
- G. Mulch
Maintain minimum of three inches compacted depth of mulch material throughout construction and Establishment Period for all plant areas as shown in the plans. Perform two full mulch cycles yearly, at six-month intervals. Do not apply mulch immediately after herbicide treatments. Herbicide treatments should have sufficient time for the chemical herbicide to translocate into the weedy plant's stem tissues. Once weedy plant tissue has died or begun yellowing, replenish the mulch to 3 inches. Inspect slopes after major rain events and correct mulch deficiencies.

1.5 TREE / SHRUB / PALM CARE PROGRAM Fertilization/insect/disease control as indicated below:

A. Schedule:

- February: Spring fertilization/insect/disease control as needed
- March/April: Insect/disease control/fertilization as needed
- May/June: Insect/disease control as needed
- July/August: Insect/disease control as needed
- October: Fall fertilization/insect/disease control as needed
- December: Insect/disease control/fertilization as needed

B. Application:

1. Fertilization

- a. Palms: Apply 8-2-12 with 4mg + micronutrients. Apply using a deep boring method (6 holes per palm). For Medjool Date Palms, apply three and one half (3.5) pounds per palm per application. For Mule Palms, apply one and one half (1.5) pounds per palm per application.
- b. Trees: Apply an 8-10-10 granular slow release fertilizer at the rates recommended by the manufacturer.
- c. Shrubs & Groundcovers: Apply an 8-10-10 granular slow release fertilizer at the rates recommended by the manufacturer.
- d. A complete minor and trace element package shall be included with each application to ensure all the requirements of plant material are met. If soil samples indicate a high pH, all fertilizers utilized will be Sulphurcoated products.
- e. Fertilizer shall be distributed evenly under the drip zone of each plant. Special care will be taken not to "clump" fertilizer neither at the base nor in the crown of plants.
- f. Soils shall be tested at a reliable testing facility twice per year to monitor for pH and chemical makeup. The results will be provided to Brevard County along with the Contractor's recommendation as to any changes in the Tree / Shrub care program based on these results.

2. Insect/Disease Control

- a. Insect and disease control require a thorough inspection of all plantings for the presence of insect or disease activity and the appropriate treatment applied.
- b. Contractor will be required to apply all pesticides in accordance with labeled directions including the use of any Personal Protective Equipment.
- c. At a minimum, monitor for:

Lethal Bronzing Disease (formerly known as Texas phoenix palm

decline (T.P.P.D.). This is a fatal, systemic disease that kills palms relatively quickly. It is spread naturally to palms by sap-feeding insects. The disease is incurable but is manageable. Management of infected palms includes trunk injection with antibiotic every 4-6 months. Palm species known to be susceptible to contracting this disease include Phoenix spp. and Sabal palmetto. The oldest leaves will appear to be grayish-brown in color and an unusually large number of leaves in the middle of the canopy will be a reddish-brown or bronze color with only a few green new growth leaves in the upper canopy along with a dead or dying spear leaf.

Pitch Canker is monitored in pine trees. Infected shoots, both terminal and lateral, will display a "flagging" or reddening and dropping of needles. These shoots will often exude a large amount of resin (pitch) and their interior wood tissues are typically resin soaked.

Southern Pine Beetle. Symptoms include needle discoloration from green to yellow to red to brown, and small lumps of whitish resin (pitch tubes) in between bark plates.

3. Specialty Palms

The Contractor will include in their proposal, a comprehensive quarterly root/bud drench for Phoenix spp. palms for potential insect/disease infestations.

4. Warranty

If a plant or tree dies from insect or disease damage while under the Establishment Period, it will be replaced with one of equal size and quality. Exclusions to this warranty would be pre-existing conditions and diseases such as Verticillium Wilt that are untreatable with currently available chemicals, soil contamination, drainage problems and acts of God. In the event these conditions exist, the Contractor is responsible to employ whatever cultural practices can be reasonably performed to extend the life of the affected material.

SECTION 11 PERMITS

1. Permits

1.1 Permits or permit exemptions that have been obtained by the Owner are on the following pages and consist of the following:

a). None

The Contractor is required to perform his work in accordance with the requirements for various permits and permit conditions that are included in the Contract Documents. The Contractor shall obtain any required permits not included in the Contract Documents before commencing construction.

SECTION 5 CONTRACT

THIS CONTRACT, made and effective this 1st day of July, 2020, A.D., by and between Brevard County, Florida, party of the first part (hereinafter sometimes called the "Owner"), and Arazoza Brothers Corporation, party of the second part (hereinafter sometimes called the "Contractor").

WITNESSETH: That the parties hereto, for the consideration hereinafter set forth, mutually agree as follows:

1. SCOPE OF THE WORK

- 1.1 The Contractor shall furnish all labor, materials, equipment, machinery, tools, apparatus, transportation to perform all of the work shown on the Drawings, Plans, and Specifications prepared by Susan Hall, ASLA Florida License #853 (Landscape Architect), entitled as follows:

Viera Boulevard and Interstate 95 Landscape Project

2. THE CONTRACT SUM

- 2.1 The Owner shall pay to the Contractor for the faithful and proper performance of the Contract, in lawful money of the United States, and subject to additions and deductions as provided in the Contract Documents.
- 2.2 Based upon the price shown in the Proposal submitted to the Owner by the Contractor, a copy of said Proposal being a part of these Contract Documents, the aggregate amount of this Contract is the sum of Five Hundred Eighty-One Thousand and One Hundred Thirty dollars; \$581,130.00.

3. COMMENCEMENT AND COMPLETION OF WORK

- 3.1 The Contractor shall commence work within ten calendar days after issuance of the Notice to Proceed by the Owner.
- 3.2 The Work, or portions thereof, shall be completed within the time set forth below. Liquidated Damages shall be imposed in the amount as set forth below for the following events:

Article	Description	Unit
Definitions	Substantial Completion	107 calendar days from NTP
	Liquidated Damages for each calendar day after time specified for Substantial Completion	\$1,655.00 per calendar day
Definitions	Final Completion (Landscape Installation)	30 calendar days from Substantial Completion
Definitions	Final Completion (Establishment Period)	2 calendar years from Final Completion (Landscape Installation)

4. CONTRACTOR'S ACCEPTANCE OF CONDITIONS

- 4.1 The Contractor hereby agrees that the surface and subsurface of the site has been carefully examined. The Contractor acknowledges sufficient test holes have been made, or other subsurface investigations made, and is satisfied that the project site is a correct and suitable one for this work, including all utility areas, and assumes full responsibility therefore.

The provisions of this Contract shall control any inconsistent provisions contained in the Specifications. All Drawings, Plans, and Specifications have been read and carefully considered by the Contractor, who understands and agrees to their sufficiency for the work to be done. It is expressly agreed that under no circumstances, conditions or situations, shall this Contract be more strongly construed against the Owner than against the Contractor and the Surety.

- 4.2 Any ambiguity or uncertainty in the Drawings, Plans, or Specifications shall be interpreted and construed by the Engineer of Record in writing, and such final determination shall be final and binding upon all parties.
- 4.3 It is distinctly understood and agreed that the passing, approval and acceptance of any part of the work or materials by the Owner, the Engineer of Record, or by any their agents or representatives for compliance with the terms of the Contract Documents covering said work shall not operate as a waiver by the Owner of strict compliance with the terms of this Contract, and/or the Drawings and Specifications covering said work.

The Owner may require the Contractor and the Surety to repair, replace, restore and/or make the work comply strictly, and in all things, with this Contract, and the Plans, Drawings, and Specifications. Any and all of said work and/or materials which within a period of one year from and after the date of the passing, approval, and/or acceptance of any such work or material, are found to be defective or to fail in any way to comply with this Contract or with the Drawings and Specifications. This provision shall not apply to materials or equipment normally expected to deteriorate or wear out and become subject to normal repair and replacement before their condition is discovered. The Contractor shall not be required to do normal maintenance work under the guarantee provisions. Failure on the part of the Contractor and the Surety to immediately repair or replace any such defective materials and workmanship shall entitle the Owner, in the Owner's sole discretion, to replace or repair the same and, after written notice, recover the reasonable cost of such replacement and repair from the Contractor and the Surety, who shall in any event be jointly and severally liable to the Owner for all damage, loss and expense caused to the Owner by reason of the Contractor's breach of this Contract and the Contractor's failure to comply strictly and in all things with this Contract and with the Drawings and Specifications.

- 4.4 The Contractor hereby agrees that normal local weather conditions have been considered in the establishment of the contract time. The Contractor expressly acknowledges that unfavorable working conditions will exist at the work site as a result of normal local weather.

The Contractor shall take into consideration local weather conditions in planning and scheduling of the work to ensure the completion of the work within the contract time provided. No time extensions will be granted for the Contractor's failure to take into account such weather conditions for the location of the work and for the period of time in which the work is to be accomplished.

- 4.5 The Contractor hereby acknowledges that no funds received pursuant to this Contract may be expended for lobbying the Legislature, the judicial branch, or a state agency.

5. INDEMNIFICATION

- 5.1 The Contractor shall indemnify and hold harmless the Owner and the Engineer of Record and their agents and employees from and against all claims, costs, expenses, including attorney's fees and damages arising out of or resulting from the performance of the work, injury or conduct, want of care or skill, negligence and patent infringement providing that any such claim, damage, loss or expenses (a) is attributable to bodily injury,

sickness, disease or death, or to injury to or destruction of property, including the loss of use resulting therefrom and (b) is caused by any negligent act or omission of the Contractor, any Subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder. The obligation of the Contractor under this Paragraph shall not extend to the liability of the Engineer of Record, the Engineer's agents or employees arising out of errors or omissions in maps, drawings, opinions, reports, surveys, contract modifications, designs or specifications which have been prepared by the Engineer of Record. The Contractor acknowledges receipt of specific consideration for this provision. Pursuant to this provision, the Owner is not requesting indemnity in any way for its own negligence. Nothing contained in this paragraph is intended to nor shall it constitute a waiver of sovereign immunity of the Owner.

6. INSURANCE

6.1 The Contractor shall be required to procure and maintain, at their own expense and without cost to the Owner, the following types of insurance. The policy limits required are to be considered minimum amounts:

- Workers' Compensation and Employers Liability Insurance: Workers Compensation insurance providing statutory benefits as required in the State of Florida. The Contractor shall require any subcontractor, unless such employees are covered by the protection afforded by the Contractor, to provide evidence of this coverage or proof of exemption to the Contractor. Additionally, if the contract requires working on or around a navigable waterway, the Contractor and all subcontractors shall provide evidence of United States Longshoremen's and Harbor Workers (USL&H) coverage and contingent coverage of Jones Act (Marine Employers Liability) in compliance with Federal statutes, or proof of exemption. The Contractor shall be responsible for compliance with these requirements by each subcontractor, vendor or supplier. This coverage must include Employer's Liability with a minimum limit of \$100,000 for each accident, \$100,000 each employee, and \$500,000 policy limit for Disease.
- Comprehensive General Liability Insurance: General Liability Insurance shall be provided and maintained with a combined single limit of \$1,000,000 for each occurrence with the Owner and Engineer of Record named as additional insureds as follows:

Comprehensive General Liability Insurance, including Products and/or Completed Operations, Explosion Hazard, Collapse Hazard and

Underground Property Damage Hazard, Contractual Liability under this contract.

- Comprehensive Auto Liability Insurance: Auto Liability policy with a \$1,000,000 combined single limit for each occurrence covering any auto with the Owner and Engineer of Record named as additional insureds.

6.2 Before commencing work, the Contractor shall file with the Owner certificates of such insurance, acceptable to the Owner. Insurance carriers providing coverage required herein must be licensed or authorized to conduct business in the State of Florida and must possess A.M. Best's Financial Strength Rating of A- Class VIII or better. These certificates shall contain a provision that the coverage afforded under the policies will not be canceled or materially changed until at least thirty days prior written notice has been given to the Owner.

7. CHANGE ORDER

7.1 A written change to the Contract approved by the Owner authorizing an addition, deletion or revision in the work, resulting in an adjustment in the Contract price and/or the Contract time issued after execution of the Contract.

7.2 Change of Contract Time and Claims for Delays

- (a) The contract times (or Milestones) may only be changed by a written Change Order. Any claim for adjustment of the contract time (or Milestones) shall be based on written notice delivered by the party making the claim to the other party promptly (but in no event later than thirty days) after the occurrence of the event giving rise to the claim and stating the general nature of the claim. Notice of the extent of the claim with supporting data, including but not limited to, backup for additional compensation requests for any delays and/or loss of efficiency, shall be delivered within sixty days after such occurrence (unless the Owner allows an additional period of time to ascertain more accurate data in support of the claim) and shall be accompanied by the claimant's written statement that the adjustment claimed is the entire adjustment to which the claimant has reason to believe it is entitled as a result of the occurrence of said event. No claim for an adjustment in the Contract Time (or Milestones) and any related equitable adjustment to the Contract Sum will be valid if not submitted in strict accordance with the requirements of this paragraph. Otherwise, such claims will be deemed to have been waived.

- (b) All time limits stated in the Contract Documents are of the essence of the contract. In other words, time is of the essence as to all applicable provisions related to time.
- (c) Where Contractor is prevented from completing any part of the work within the contract time (or Milestones) due to delay beyond the control of Contractor, the contract time (or Milestones) will be extended in an amount equal to the time lost due to such delay if a claim is made thereof as provided in paragraph 7.2 (a). Delays beyond the control of Contractor shall include, but not be limited to, acts or neglect by Owner, acts or neglect of utility owners or other contractors performing other work, fires, floods, epidemics, abnormal weather conditions or acts of God. Delays attributable to and within the control of a Subcontractor shall be deemed to be delays within the control of Contractor.
- (d) No Damages for Delay: NO CLAIM FOR DAMAGES OR ANY CLAIM OTHER THAN FOR AN EXTENSION OF TIME SHALL BE MADE OR ASSERTED AGAINST THE OWNER BY REASON OF ANY DELAYS. The Contractor shall not be entitled to an increase in the Contract Sum or payment or compensation of any kind from the Owner for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration, or inefficiency, arising because of delay, disruption, interference or hindrance from any cause whatsoever, including but not limited to fires, floods, epidemics, abnormal weather conditions, acts of God, acts or neglect by utility owners or other contractors performing other work; however, this provision shall not preclude recovery or damages by the Contractor for hindrances or delays due solely to fraud, bad faith, or active interference on the party of the County or its agents. Otherwise, the Contractor shall be entitled only to extensions of the Contract Time as the sole and exclusive remedy for such resulting delay, in accordance with and to the extent specifically provided above.
- (e) Contract time shall not be extended for rain delays. The Owner may consider granting time extensions as stipulated in Section 8-6.1.1 of Florida Department of Transportation (F.D.O.T.) Specifications for temporary suspension of work due to adverse weather conditions due to catastrophic occurrences.

7.3 Extra Work

- (a) The Contractor shall do all extra work that may be ordered in writing by the Owner arising out of the modification of the

Specifications or Drawings made or approved by the Owner. For this work, the Contractor shall be paid at the rates named in the Contract for work of a similar nature and character. If the extra work be of a class for which no rate is fixed in the Contract, the actual reasonable cost as determined by the Owner, plus fifteen percent of said cost for profit and general expense shall be paid the Contractor. No claim for extra work shall be allowed unless the same was ordered in writing by the Owner, and the claim was presented by the Contractor at the time of the next estimate or pay application is submitted by the Contractor after the work is completed. Otherwise, should the Contractor not timely submit its claim for extra work pursuant to the above requirement, the Contractor voluntarily acknowledges it has waived its rights to such claims for extra work.

- (b) Except as hereinafter provided, all extra work ordered and performed in accordance with the above paragraph will be paid for at the price in the written order for such work. This price (or rate) shall have been approved by the Owner and mutually agreed by the Contractor and the Owner to be suitable compensation for the contemplated extra work. However, if the Contractor fails to agree on an equitable price for any extra work ordered, it shall be performed by using labor, tools, equipment, and materials as may be specified by the Owner and will be paid for in the following manner:
- (1) For all labor, including a foreman in direct charge of the specified operations, the Contractor shall receive a sum equal to the current local rate of wages for every hour that the labor is actually engaged in such work, to which shall be added an amount equal to fifteen percent of such sum, and the total thereof shall be full compensation to the Contractor for general supervision and for furnishing and repairing small tools and ordinary equipment used in doing the extra work. In addition, the Contractor shall be paid the actual wages paid to such labor.
 - (2) For all materials used, the Contractor shall receive the actual cost of such materials, including freight charges, as shown by original receipted bills, to which costs shall be added an amount equal to ten percent thereof.
 - (3) For any special machinery or special equipment, including fuel and lubricants there for, required for the economic performance of extra work, the Owner shall allow the

Contractor a reasonable rental price, to be agreed upon in writing before such work is begun, for every hour that such special machinery or equipment is used on the extra work.

- (c) The compensation herein provided shall be received and accepted by the Contractor as payment in full for all extra work done.
- (d) The Contractor's representative and the Owner's representative shall compare records of extra work done at the end of each day. Such records shall be made in triplicate upon a form provided for such purpose by the Owner and shall be signed by both the representatives referred to herein, one copy being submitted to the Construction Engineering Inspector, a second copy being submitted to the Owner, and the third copy being retained by the Contractor.
- (e) Contractor force account work shall be done in compliance with Article 4-3 of F.D.O.T. Standard Specifications, January 2020 Edition. Contractor shall provide written notification of any differing site conditions within twenty-four hours of becoming aware of such condition.
- (f) Where extra work is performed by a subcontractor, the Contractor is limited to a total of fifteen percent of the subcontractor charges as overhead, profit, insurance, bonding, etc.

8. SUSPENSION OF WORK

- 8.1 Should the Owner be prevented or enjoined from proceeding with work, either before or after the start of construction, by reason of any litigation or other reason beyond the control of the Owner, the Contractor shall not be entitled to make or assert claim for damage by reason of said delay; but time for completion of the work will be extended to such reasonable time as the Owner may determine to compensate for time lost by such delay, with such determination to be set forth in writing.

9. DISPUTE RESOLUTION

- 9.1 Within three days after denial of the Contractor's change order request in an amount, individually or in total, less than the authorized purchasing level approved for the County Manager by the County Commission (currently at \$100,000) the Contractor may submit to the County Manager or designee with experience in the oversight of construction projects for a department or business other than the department responsible for monitoring the disputed request, documentation of the Contractor's position in the dispute or disagreement. The County Manager or designee,

within five days after the receipt of the Contractor's documentation, shall review the request and make a final determination as to whether denial was arbitrary or capricious based upon the sufficiency of the work under the terms of the contract, applicable regulations and relevant construction standards. Based upon the sufficiency and degree of completion, as well as any defects in the work and the amount reasonably required, if any, to correct or repair defective work, the reviewer shall make the final determination as to whether a written change order should be approved by the County Manager.

If the denied request or disputed amount exceeds the County Manager's purchasing authority, the County Manager shall present a report, recommendation and the Contractor's claim and documentation, to the County Commission for a final determination within thirty days after receiving the Contractor's documentation for the claim. The Commission shall make its decision using the standards specified in subparagraph 40.1 above.

- 9.2 Within thirty days after denial of a request for a change order involving 1] an amount in excess of the County Manager's purchasing authority or 2] for the amount the Contractor claims to be due at the time the project is ready for beneficial use or occupation, the Owner may, at the Owner's option in lieu of the procedure specified in subparagraph 9.1, submit the dispute to a mediator with knowledge or experience in construction management, as agreed upon by the Parties. Upon referral to a mediator, the Owner and Contractor shall each pay half the estimated cost of the mediator, up front. Within thirty days after the date of submittal, the mediator, applying the standards set forth in subparagraph 9.1, shall investigate the dispute and submit a written recommendation for disposition of the dispute to the County Manager or designee with the qualifications specified in subparagraph 7.1. Within thirty days after receiving the mediator's recommendation, the County Manager shall submit the recommendation to the County Commission, along with a staff report analyzing the dispute and mediator's recommendation. Based on the standards set forth in subparagraph 9.1 above, the Commission shall decide whether to grant or deny, in whole or in part, the amounts recommended by the mediator. The Commission's decision will be deemed final action on the disputed claim for the purposes of ripening the decision for judicial review. If the mediator recommends that no change order be granted, the contractor shall reimburse the Owner any amounts paid by the Owner to the mediator.
- 9.3 The deadlines for completing the dispute resolution process described in subparagraphs 9.1 and 9.2 may be extended by mutual agreement of the Owner and Contractor.

10. LIQUIDATED DAMAGES

- 10.1 It is mutually agreed that time is of the essence of this Contract and should the Contractor fail to complete the work, or portions thereof, within the specified time, or any authorized extension thereof, there shall be deducted from the compensation otherwise to be paid to the Contractor, and the Owner will retain the amount of liquidated damages stated in Section V, Article 3.2 of the Specifications and Contract Documents, per calendar day elapsing beyond the specified time for completion or any authorized extension thereof, which sum shall represent the actual damages which the Owner will have sustained by failure of the Contractor to complete the work, or portions thereof, within the specified time; it being further agreed that said sum is not a penalty, but is the stipulated amount of damages sustained by the Owner in the event of such default by the Contractor.
- 10.2 Substantial Completion, Final Completion, and any intermediate Milestones are stipulated as fair and reasonable. Such Liquidated Damages shall apply separately to each portion of the Work for which a time for completion is given. Contractor waives any and all challenges and legal defenses to the validity of any Liquidated Damages established in the Contract Documents, including that the Liquidated Damages are void as penalties or are not reasonably related to the actual damages sustained by the Owner as a result of Contractor's untimely performance.
- 10.3 For the purposes of this Article, the day of Final Completion of the work shall be considered a day of delay.

11. PARTIAL AND FINAL PAYMENTS

- 11.1 In accordance with the provisions fully set forth in the General Conditions, and subject to additions and deductions as provided, the Owner shall pay the Contractor as follows:
- (a) The Contractor must provide subcontractor(s) releases from the prior payment draw prior to making the next payment draw, and require Subcontractor Waivers of Rights Against Payment Bond for only the previous pay request. Notwithstanding the foregoing pursuant to section 255.05(11), Florida Statutes, when the Contractor has furnished and recorded the Public Construction Bond (Payment and Performance) and provided the County with a written consent from the Surety regarding the project or payment in question, no such waivers shall be required. The Surety may, in a writing served on the County, revoke its consent or direct that the County withhold a specified amount from a payment, which shall be

effective upon receipt.

- (b) Upon submission by the Contractor of evidence satisfactory to the Owner that all payrolls, material bills and other costs incurred by the Contractor in connection with the construction of the work have been paid in full, and also, after all guarantees that may be required in the specifications have been furnished and are found acceptable by the Owner, final payment on account of this Agreement shall be made within thirty days after Final Acceptance by the Owner.

12. NO WAIVER OF LEGAL RIGHTS

- 12.1 Observation by the Owner, Construction Engineering Inspector, or by any duly authorized representatives, any measurement or report by the Owner, any order by the Owner for the payment of money, any payment for or acceptance of any work or any extension of time or any possession taken by the Owner shall not operate as a waiver of any provision of this Contract, or any power therein preserved to the Owner, or of any right to damages therein provided. Any waiver of any breach of this Contract shall not be held to be a waiver of any other or subsequent breach.
- 12.2 The Owner reserves the right to correct any error that may be discovered in any estimate that may have been paid, and to adjust the same to meet requirements of this Contract. The Owner further reserves the right, should proof of defective work on the part of the Contractor be discovered after the final payment has been made, to claim and recover by process of law, such sums as may be sufficient to correct the error, or make good the defects in the work.
- 12.3 Any waiver of any provision of the Contract Documents shall be specific, shall apply only to the particular item or matter concerned and shall not apply to other similar or dissimilar items or matters.

13. PUBLIC CONSTRUCTION BOND (PAYMENT AND PERFORMANCE)

- 13.1 Within ten days of execution of the Contract, by both parties, the Contractor shall provide to the Owner a copy of the Public Construction Bond (Payment and Performance) that has been officially recorded in the office of the Brevard County Clerk of the Court, and shall provide a copy of same to each and every subcontractor approved by the Owner for the project, and notify them of deadlines to make claims under said bond. The Powers of Attorney must be recorded with the bond. Payment for the recording is incidental to the Contract.
- 13.2 The Public Construction Bond shall name the State of Florida, Department

of Transportation as an additional obligee. All warranties on any product or material used in construction of said project shall be in favor of the State of Florida, Department of Transportation.

14. ADDITIONAL BONDS

14.1 It is further mutually agreed between parties hereto that if, at any time after the execution of this Agreement and the Public Construction Bond hereto attached for its faithful performance, the Owner shall deem the surety or sureties upon such bonds to be unsatisfactory, or if, for any reason, such bond ceases to be adequate to cover the performance of the work, the Contractor shall, at the Contractor's expense, and within three days after the receipt of Notice from the Owner to do so, furnish an additional bond or bonds, in such form and amount, and with such sureties as shall be satisfactory to the Owner. In such event, no further payment to the Contractor shall be deemed due under this Agreement until such new or additional security for the faithful performance of the work shall be furnished in manner and form satisfactory to the Owner.

15. CONTRACT DOCUMENTS

15.1 The Contract Documents, as stated in the Instructions to Bidders and attached hereto, are as fully a part of this Contract as if herein repeated. An enumeration of the Drawings accompanying these Contract Documents follows:

Index of Roadway Plans

<u>Sheet No.</u>	<u>Sheet Description</u>
1	Key Sheet
2	Summary of Pay Items
3	General Notes
4	Project Layout
5	Selective Clearing & Grubbing Plan
6-15	Landscape Plans
16	Landscape Details
17	Tabulation of Quantities

16. UNAUTHORIZED ALIEN WORKERS / E-VERIFY

16.1 The County will not intentionally award publicly funded contracts to any Contractor who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324a(e)(Section 274(e) of the Immigration and Nationality Act (INA). The County shall consider the employment by the Contractor of

unauthorized aliens a violation of Section 274(e) of the INA. Such violation by the recipient of the employment provisions contained in Section 274(e) of the INA shall be grounds for unilateral cancellation of this contract by the County.

- 16.2 The Contractor shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Contractor during the term of the contract; and shall expressly require any subcontractors performing work or providing services pursuant to this contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.

17. SCRUTINIZED COMPANIES

- 17.1 For Contracts of any amount, if the Owner determines the Contractor submitted a false certification, Vendor Affidavit Regarding Scrutinized Company List, under Section 287.135(5) of the Florida Statutes, or if the Contractor has been placed on the Scrutinized Companies that Boycott Israel List, or is engaged in a boycott of Israel, the Owner shall either terminate the Contract after it has given the Contractor notice and an opportunity to demonstrate the Owner's determination of false certification was in error pursuant to Section 287.135(5)(a) of the Florida Statutes, or maintain the Contract if the conditions of Section 287.135(4) of the Florida Statutes are met. For Contracts \$1,000,000 and greater, if the Owner determines the Contractor submitted a false certification under Section 287.135(5) of the Florida Statutes, or if the Contractor has been placed on the Scrutinized Companies with Activities in the Sudan List, or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, the Owner shall either terminate the Contract after it has given the Contractor notice and an opportunity to demonstrate the Owner's determination of false certification was in error pursuant to Section 287.135(5)(a) of the Florida Statutes, or maintain the Contract if the conditions of Section 287.135(4) of the Florida Statutes are met.

18. AUDIT RIGHTS

- 18.1 In performance of the Contract, the Contractor shall keep books, records, and accounts of all activities related to the Contract in compliance with generally accepted accounting procedures. All documents, papers, books, records and accounts made or received by the Contractor in conjunction with the Contract and the performance of this Contract shall be open to inspection during regular business hours by an authorized representative of the County. The Contractor shall retain all documents, books and records for a period of five years after termination of this

Contract, unless such records are exempt from section 24(a) if Article I of the State Constitution and Ch. 119, Florida Statutes. All records or documents created by or provided to the Contractor by the County in connection with this Contract are public records subject to Florida Public Records Law, Chapter 119, Florida Statutes. All records stored electronically must be provided to the County in a format compatible with the information technology systems of the County.

The Contractor shall ensure that public records which 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 and following termination of the Contract if the Contractor does not transfer the records to the public agency. In lieu of retaining all public records upon termination of this Contract, the Contractor may transfer, at no cost to the County, all public records in possession of the Contractor. If the Contractor transfers all public records to the County upon termination of the Contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements.

19. PUBLIC RECORDS

- 19.1 Pursuant to Section 119.0701, a request to inspect or copy public records relating to this Contract must be made directly to the County. If the County does not possess the requested records, the County shall immediately notify the Contractor of the request and the Contractor must provide the records to the County or allow the records to be inspected or copied within twenty-four hours (not including weekends and legal holidays) of the request so the County can comply with the requirements of Sections 119.07. The Contractor may also provide a cost estimate to produce the requested documents consistent with the policy set forth in Brevard County Administrative Order AO-47, incorporated herein by this reference. A copy of AO-47 is available upon request from the County's public records custodian designated below.

If the Contractor fails to provide the requested public records to the County within a reasonable time, the Contractor may face civil liability for the reasonable cost of enforcement incurred by the party requesting the records and may be subject to criminal penalties. Sections 119.0701, 119.110. The Contractor's failure to comply with public records requests is considered a material breach of this Contract and grounds for termination.

Should the County face any legal action to enforce inspection or production of the records within the Contractor's possession and control,

The Contractor agrees to indemnify the County for all damages and expenses, including attorney's fees and costs. The Contractor shall hire and compensate attorney(s) to represent the Contractor and County in defending such action. The Contractor shall pay all costs to defend such action and any costs and attorneys fees awarded pursuant to Section 119.12.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 321-617-7202; ROBERT.HENDRICKS@BREVARDFL.GOV; 2725 JUDGE FRAN JAMIESON WAY, SUITE A-201, VIERA, FL 32940

20. INSPECTOR GENERAL

20.1 The Contractor agrees to comply with s.20.055(5), Florida Statutes, and to incorporate in all subcontracts the obligation to comply with s.20.055(5), Florida Statutes to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing.

21. FAILURE TO PERFORM WORK

21.1 At Owner's option, if the Contractor shall fail to begin the work called for by the Contract within the time specified, or fail to perform the work continuously with sufficient workers and equipment or with sufficient materials to insure the prompt completion of the work within the prescribed time, or shall perform the work unsatisfactorily, or shall neglect or refuse to remove materials or to perform such work as shall be rejected as defective and unsuitable, or shall discontinue the prosecution of the work, or shall become insolvent, or be declared bankrupt, or shall commit any act of bankruptcy or insolvency, or shall make an assignment for the benefit of creditors, or from any other cause whatsoever shall not carry on the work in an acceptable manner, the Owner may give notice in writing to the Contractor and to the Surety of such delay, neglect or default, specifying the conditions pertaining thereto and directing the Contractor to correct the same.

21.2 If the Contractor shall not correct such conditions within a period of five calendar days after receipt of such notice, the Owner shall, upon written report reciting the facts of such delay, neglect or default, have full power and authority, without violating the Contract, to take the prosecution of the work out of the hands of the Contractor, to appropriate or use any or all

materials and equipment on the grounds as may be suitable and acceptable, to enter into an agreement with another Contractor for the completion of the work or to use such other methods as, in the opinion of the Owner, shall be required for the completion of the work in an acceptable manner.

- 21.3 All costs and charges incurred by the Owner together with the costs of completing the work under the Contract, shall be deducted from any monies due or which may become due. In the event that the expense so incurred by the Owner shall be less than the sum which would have been payable under the Contract if the work had been completed by the Contractor, the Contractor shall be entitled to receive the difference; in case such expense shall exceed the sum which would have been payable under the Contract, the Contractor and the Surety shall be liable and shall pay to the Owner the amount of such excess.

22. ASSIGNMENT OF CONTRACT

- 22.1 No assignment by the Contractor of this Contract or of any part thereof, or any monies due, or to become due thereunder shall be made without the prior approval of the Owner, which approval will be given only after the Surety on the Performance and Payment Bonds has informed the Owner in writing that it has no objection to such assignment being made.
- 22.2 In the event that the Contractor shall undertake to assign all or any part of any monies due or to become due under this Contract, the instrument of assignment shall contain a provision substantially to the effect that it is agreed that the rights of the assignee in and to any of such monies shall be subject to the prior liens of all persons for services rendered or materials supplied for the performance of all work embraced by this Contract.

23. TERMINATION

- 23.1 In the event Owner does not choose the notice and possible cure option described in Article 9 above, the performance of work under this Contract may be terminated by the Owner in accordance with this clause in whole, or from time to time in part, whenever the Owner shall determine that such termination is necessary. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying the extent to which performance of work under the contract is terminated, and the date upon which such termination becomes effective.
- 23.2 After receipt of a Notice of Termination, and except as otherwise directed by the Owner, the Contractor shall:

- (a) Stop work under this Contract on the date and to the extent specified in the Notice of Termination.
- (b) Place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under this Contract as is not terminated.
- (c) Terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination.
- (d) Assign to the Owner, in a manner, at the times, and to the extent directed by the Owner, all of the right, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case the Owner shall have the right, in the Owner's discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.
- (e) Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Owner to the extent the Owner may require, which approval or ratification shall be final for all the purposes of this clause.
- (f) Transfer title and deliver to the Owner, in the manner, at the times, and to the extent, if any directed by the Owner, the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced as a part of, or acquired in connection with the performance of, the work terminated by the Notice of Termination.
- (g) Complete performance of such part of the work as shall not have been terminated by the Notice of Termination.
- (h) Take action as may be necessary or as the Owner may direct, for the protection and preservation of the property related to this Contract which is in the possession of the Contractor and in which the Owner has or may acquire an interest.

23.3 After receipt of a Notice of Termination, the Contractor shall submit to the Owner the Contractor's termination claim, in the form and with the certification prescribed by the Owner. Such claim shall be submitted promptly, but in no event later than one month from the effective date of termination unless one or more extensions in writing are granted by the Owner. No claim will be allowed for machinery and equipment rental expense incurred after the effective date of the Notice of Termination.

Upon failure of the Contractor to submit a termination claim within the time allowed, the Owner shall determine, on the basis of information available to the Owner, the amount, if any, due to the Contractor by reason of the termination and shall thereupon advise the Owner the amount so determined.

- 23.4 The Contractor and the Owner may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the total or partial termination of work pursuant to this clause, which amount or amounts may include a reasonable allowance for profit on work done; provided, that such agreed amount or amounts, exclusive of settlement costs shall not exceed the total Contract price as reduced by the amount of payments otherwise made and as further reduced by the Contract price of work not terminated. The Contract shall be amended accordingly and the Contractor shall be paid the agreed amount. Nothing in this clause, prescribing the amount to be paid to the Contractor in the event of failure of the Contractor by reason of the termination of work pursuant to this clause, shall be deemed to limit, restrict, or otherwise determine or affect the amount or amounts which may be agreed upon to be paid to the Contractor pursuant to this Paragraph.
- 23.5 In the event of the failure of the Contractor and the Owner to agree as provided in the preceding paragraph on the whole amount to be paid to the Contractor by reason of the termination of work pursuant to this Article, the Owner shall determine, on the basis of information available to the Owner, with respect to all Contract work performed prior to the effective date of the Notice of Termination, the total (without duplication of any items) of the cost of such work and a sum, as a profit, equal to two percent of said cost of the work, which represents the cost of articles or materials delivered to the site, but not incorporated in the work and in place on the effective date of the Notice of Termination, plus a sum equal to eight percent of the remainder to such amount, but the aggregate of such sums shall not exceed six percent of the whole of the amount determined above; provided, however, that if it appears that the Contractor would have sustained a loss on the entire Contract had it been completed, no profit shall be included or allowed under this paragraph and an approximate adjustment shall be made reducing the amount of the settlement to reflect the indicated rate of loss.
- 23.6 The total sum to be paid to the Contractor shall not exceed the total Contract price as reduced by the amount of payments otherwise made and as further reduced by the contract price of work not terminated. Except for normal spoilage, and except to the extent that the Owner shall have otherwise expressly assumed the risk of loss, there shall be excluded from the amounts payable to the Contractor the fair value, as

determined by the Owner, of property which is destroyed, lost, stolen, or damaged so as to become undeliverable to the Owner.

23.7 In arriving at the amount due the Contractor under this clause there shall be deducted (1) all unliquidated advance or other payment on account theretofore made to the Contractor, applicable to the terminated portion of this contract, (2) any claim which the Owner may have against the Contractor in connection with this Contract, and (3) the agreed price for, or the proceeds of sale of, any materials, supplies, or other things kept by the Contractor or sold, pursuant to the provisions of this clause, and not otherwise recovered by or credited to the Owner.

24. ATTORNEY'S FEES

24.1 In the event of any legal action to enforce the terms of this Contract, each party shall bear its own attorney's fees and costs.

25. VENUE

25.1 Venue for any legal action by any party to this Contract to interpret, construe or enforce this Contract, shall be in a court of competent jurisdiction in and for Brevard County, Florida, and any trial shall be non-jury.

26. WAIVER OF JURY TRIAL

26.1 The parties acknowledge that by entering into this Contract, they are giving up their rights to have any dispute decided before a jury. Any trial will be a non-jury trial.


IN WITNESS WHEREOF the parties hereto have executed this Contract on the day and date first above written in three counterparts, each of which shall, without proof or accounting for the other counterparts, be deemed an original Contract.

ATTEST




Scott Ellis, Clerk
Brevard County, Florida

BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA
Party of the First Part

By: 

Bryan Andrew Lober, Chair
As approved by the Board on: April 21, 2020

Reviewed for legal form and content:



County Attorney

Witnessed in the presence of:**





Arazoza Brothers Corporation

Party of the Second Part

By: 

Alberto Arazoza, President
(seal)



(*) In the event that the Contractor is a Corporation, there shall be attached to each counterpart a certified copy of a resolution of the Board of Directors of the Corporation, authorizing the officer who signs the Contract to do so in its behalf.

(**) Two witnesses are required when Contractor is sole ownership or partnership

CERTIFICATE

STATE OF FLORIDA)

ss

COUNTY OF DADE)

I HEREBY CERTIFY that at a meeting of the Board of Directors of Arazoza Brothers Corporation a corporation under the laws of the State of Florida, held on July 20, 2020, the following resolution was duly passed and adopted:

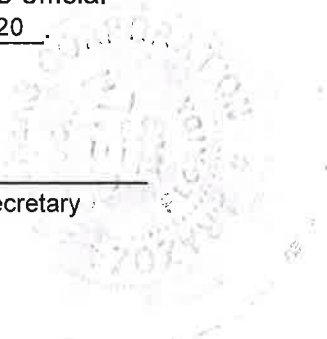
"RESOLVED, that Alberto Arazoza, as President of the corporation, is hereby authorized to execute the Contract dated July 1, 2020, between Board of County Commissioners of Brevard County, Florida, and this corporation, and that the execution thereof, attested by the Secretary of the corporation and with corporate seal affixed, shall be the official act and deed of this corporation."

I further certify that said resolution is now in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the corporation this 20th day of July, 2020.



(Name/Title) Alberto Arazoza, Secretary



SECTION 6
PUBLIC CONSTRUCTION BOND
(Payment and Performance)

BY THIS BOND, We Arazoza Brothers Corporation, having its principal place of business at 15901 SW 242 Street, Homestead, FL 33031,
(305) 246 - 3223, herein called Principal, and Great Midwest Insurance Company,
having its principal place of business at 800 Gessner, Suite 600, Houston, Texas 77024,
(713) 935 - 0226, a corporation as Surety, are bound to Board of County Commissioners of Brevard County, Florida, 2725 Judge Fran Jamieson Way, Viera, Florida, 32940, (321) 633-2000, herein called Owner and the State of Florida, Department of Transportation as an additional obligee, in the sum of \$581,130.00 for payment of which we bind ourselves, our heirs, personal representatives, successors, and assigns, jointly and severally.

THE CONDITIONS OF THIS BOND are that if Principal:

1. Performs the contract number 4813 dated July 1, 2020 between Principal and Owner for the Viera Boulevard and Interstate 95 Landscape Project. The project includes planting and establishing new landscaping in several locations along the new interchange, the contract being made a part of this bond by reference, at the times and in the manner prescribed in the contract; and
2. Promptly makes payments to all claimants, as defined in Section 255.05(1), Florida Statutes, supplying Principal with labor, materials, or supplies, used directly or indirectly by Principal in the prosecution of the

work provided for in the contract; and

3. Pays Owner all losses, damages, expenses, costs, and attorney's fees, including appellate proceedings, that Owner sustains because of a default by Principal under the contract; and
4. Performs the guarantee of all work and materials furnished under the contract for the time specified in the contract, then this bond is void; otherwise it remains in full force.

Any action instituted by a claimant under this bond for payment must be in accordance with the notice and time limitation provisions in Section 255.05(2) and (10), Florida Statutes.

Any changes in or under the contract documents and compliance or noncompliance with any formalities connected with the contract or the changes does not affect Surety's obligation under this bond.

Signed and sealed this 21st day of July, 2020.

Witness:



Arazoza Brothers Corporation

(Principal)

(Seal)

Its:

(Title) President

Witness:



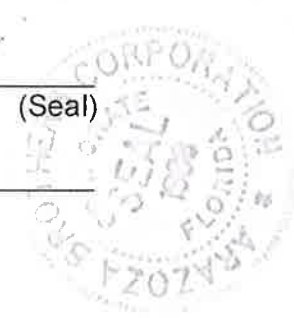
Great Midwest Insurance Company

(Surety)

(Seal)

Its:

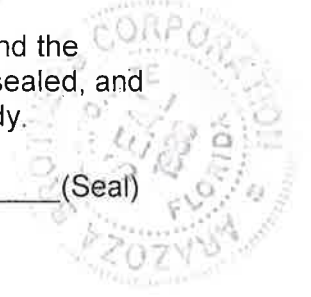
(Title) Charles J. Nielson, Attorney-in-fact



CERTIFICATE AS TO CORPORATE PRINCIPAL

I, Alberto Aragoza certify that I am the Secretary of the Corporation named as Principal in the within Bond; that Alberto Aragoza who signed the said bond on behalf of the Principal, was then President of said Corporation; that I know the Principal, and the Principal's signature hereto is genuine; and that said bond was duly signed, sealed, and attested for and in behalf of said Corporation by authority of its governing body.

[Signature] (Seal)
Secretary



STATE OF FLORIDA)

COUNTY OF ^{SS} Miami-Dade

Before me, a Notary Public, duly commissioned, qualified and acting, personally appeared Charles J. Nielson to me well known, who being by me first duly sworn upon oath, says that this individual is the Attorney-in-Fact, for the Great Midwest Insurance Company and that said individual has been authorized by Great Midwest Insurance Company to execute the foregoing bond on behalf of the Contractor named therein in favor of Board of County Commissioners of Brevard County, Florida.

Subscribed and sworn to before me this 21st day of July, 2020, A.D.

(Attach Power of Attorney)

[Signature]

Notary Public
State of Florida-at-Large

My Commission Expires: January 4, 2021
My Commission Number is: GG 058656



POWER OF ATTORNEY

GM- 202497

Great Midwest Insurance Company

KNOW ALL MEN BY THESE PRESENTS, that GREAT MIDWEST INSURANCE COMPANY, a Texas Corporation, with its principal office in Houston, TX, does hereby constitute and appoint: Dale A. Belis, Marilyn Ann Blome, Donald Bramlage, Edward M. Clark, Christian Collins, F. Danny Gann, David R. Hoover, Jarrett Merlucci, Laura D. Mosholder, Charles J. Nielson, Jessica P. Reno, Audria R. Ward, Edward T. Ward, Kevin Wojtowicz, Richard Zimmerman its true and lawful Attorney(s)-In-Fact to make, execute, seal and deliver for, and on its behalf as surety, any and all bonds, undertakings or other writings obligatory in nature of a bond.

This authority is made under and by the authority of a resolution which was passed by the Board of Directors of GREAT MIDWEST INSURANCE COMPANY, on the 1st day of October, 2018 as follows:

Resolved, that the President, or any officer, be and hereby is, authorized to appoint and empower any representative of the Company or other person or persons as Attorney-In-Fact to execute on behalf of the Company any bonds, undertakings, policies, contracts of indemnity or other writings obligatory in nature of a bond not to exceed Four Million dollars (\$4,000,000.00), which the Company might execute through its duly elected officers, and affix the seal of the Company thereto. Any said execution of such documents by an Attorney-In-Fact shall be as binding upon the Company as if they had been duly executed and acknowledged by the regularly elected officers of the Company. Any Attorney-In-Fact, so appointed, may be removed in the Company's sole discretion and the authority so granted may be revoked as specified in the Power of Attorney.

Resolved, that the signature of the President and the seal of the Company may be affixed by facsimile on any power of attorney granted, and the signature of the Secretary, and the seal of the Company may be affixed by facsimile to any certificate of any such power and any such power or certificate bearing such facsimile signature and seal shall be valid and binding on the Company. Any such power so executed and sealed and certificate so executed and sealed shall, with respect to any bond of undertaking to which it is attached, continue to be valid and binding on the Company.

IN WITNESS THEREOF, GREAT MIDWEST INSURANCE COMPANY, has caused this instrument to be signed by its President, and its Corporate Seal to be affixed this 15th day of October, 2018.

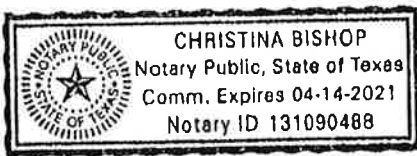


GREAT MIDWEST INSURANCE COMPANY

BY [Signature] Peter B. Smith President

ACKNOWLEDGEMENT

On this 15th day of October, 2018, before me, personally came Peter B. Smith to me known, who being duly sworn, did depose and say that he is the President of GREAT MIDWEST INSURANCE COMPANY, the corporation described in and which executed the above instrument: that he executed said instrument on behalf of the corporation by authority of his office under the By-laws of said corporation.



BY [Signature] Christina Bishop Notary Public

CERTIFICATE

I, the undersigned, Secretary of GREAT MIDWEST INSURANCE COMPANY, A Texas Insurance Company, DO HEREBY CERTIFY that the original Power of Attorney of which the foregoing is a true and correct copy, is in full force and effect and has not been revoked and the resolutions as set forth are now in force.

Signed and Sealed at Houston, TX this 21st Day of July, 20



BY [Signature] Leslie K. Shaunty Secretary

"WARNING: Any person who knowingly and with intent to defraud any insurance company or other person, files and application for insurance of claim containing any materially false information, or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime and subjects such person to criminal and civil penalties.