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3 of 4

**CONTINUING ROOFING CONTRACTING  
SERVICES AGREEMENT**

This is an Agreement entered into this 12th day July of 2018, by and between **BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS**, a political subdivision of the State of Florida, hereinafter referred to as COUNTY and **BEL-MAC ROOFING**, a corporation under the laws of the State of Florida, hereinafter referred to as CONTRACTOR, whose address is 1996 S. Highway 1, Rockledge, Florida 32955.

WHEREAS, the County has a need for the services of a contractor to provide continuing roofing contracting services under a continuing contract;

WHEREAS, the County issued a Request for Proposals #RFP-4-18-12 for such services and has selected the CONTRACTOR to provide said services;

WHEREAS, this is an Agreement for construction services for projects in which the construction costs do not exceed \$2 million or for projects that may be funded or submitted for reimbursement by/through the Federal Emergency Management Agency, as outlined herein.

For and in consideration of the mutual agreement hereinafter contained, the COUNTY hereby retains the CONTRACTOR and the CONTRACTOR hereby covenants to provide continuing roofing contracting services as prescribed herein.

**SECTION 1 - GENERAL IDENTIFICATION OF SERVICES**

All continuing contracting services provided by the CONTRACTOR for the COUNTY shall be identified in Proposal format. Proposals shall include a detailed description of the roofing services to be performed including square footage, proposed schedule for compensation based on negotiated hourly rates, the proposed number of man hours for each category of labor, the number of workers in each category of labor to be dedicated to the particular work/project from **Attachment "B"** Pricing Sheet to be assigned to the Work, a projected schedule for completion of the Work, and any other terms or conditions specific to the Work to be performed by the CONTRACTOR, including terms that may be specific to projects that may be funded or submitted for reimbursement by/through the Federal Emergency Management Agency. A Proposal submitted to the COUNTY shall not give rise to any contractual rights until approved by the COUNTY in the form of a written Notice to Proceed signed by an authorized representative of the Brevard County Board of County Commissioners, and where approved by Board action, if applicable. The written Notice to Proceed and specific Proposal, as approved by the COUNTY, shall together constitute an addendum to this Agreement.

The Federal Emergency Management Agency (FEMA) Clauses and Certifications included herein, or attached hereto, control over any conflicting clauses contained within the separate Agreements, covering the work for each Project, between the COUNTY and the CONTRACTOR, when the Work involved will be submitted by/through FEMA for reimbursement to the COUNTY. The FEMA Clauses and Certifications are attached hereto, and incorporated by this reference, as **Attachment "A."**

Preventative Maintenance will be performed at each facility, based on pricing in **Attachment "B"** Pricing Sheet, upon notification from the COUNTY.

## SECTION II – COUNTY/CONTRACTOR OBLIGATIONS - RECORDS

The COUNTY shall furnish to the CONTRACTOR, upon request, any plans/drawings/data available in the COUNTY'S files pertaining to the work to be performed under this Agreement. However, pursuant to the Florida Statute 119.07 provides that building plans, blueprints, schematic drawings and diagrams, include draft, preliminary and final formats, which depict the internal layout and structural elements of a building, arena, stadium, water treatment facility, or other structure owned or operated by the County are exempt from Public Records. These documents, while exempt from public records, are provided to the CONTRACTOR as a receiving entity in order to perform its duties and responsibilities under this Agreement; however, the CONTRACTOR understands it is required to treat the above records as exempt from public records.

## SECTION III - CONTINUING ROOFING CONTRACTING SERVICES

Upon receipt of Notice to Proceed, CONTRACTOR agrees to perform all services associated with the requested Work in accordance with the negotiated terms of the applicable approved Proposal, and in accordance with accepted professional standards and practices. No Notice to Proceed will be issued for Preventative Maintenance Services.

In connection with continuing roofing contracting services to be rendered pursuant to this Agreement, the CONTRACTOR further agrees to:

- A. Maintain an adequate staff of qualified personnel.
- B. Comply with federal, state and local laws applicable to the work.
- C. Cooperate fully with the COUNTY in the scheduling and coordination of all phases of the work.
- D. Cooperate and coordinate with other COUNTY contractors, as directed by the COUNTY.
- E. Report the status of the work to the COUNTY upon request and hold pertinent data, calculations, field notes, records, sketches and other projects open to the inspection of the COUNTY or its authorized agent at any time.

Submit to COUNTY field observations, reports, and other data representative of the work's progress. Submit for COUNTY approval the final work product upon incorporation of any modifications requested by the COUNTY during any previous review.

- G. Certify to the COUNTY that all materials supplied to the Brevard County Board of County Commissioners is 100% asbestos-free.

## SECTION IV - TIME OF COMPLETION

The services to be rendered by the CONTRACTOR for each section of the Work shall

commence upon receipt of a written Notice to Proceed from the COUNTY subsequent to the execution of the Agreement, and shall be completed within the time stated in the approved Proposal. Preventative Maintenance Services shall be completed upon request from the COUNTY. Preventative Maintenance Report and invoice for services shall be submitted within ten (10) days of completion of the work to [facilities.accounts@brevardfl.gov](mailto:facilities.accounts@brevardfl.gov)

#### SECTION V - COMPENSATION

The COUNTY agrees to pay and the CONTRACTOR agrees to accept, for services rendered pursuant to this Agreement, fees and other compensation computed in accordance with the methods outlined in **Attachment "B"** – "Pricing Sheet", and as specified in an approved Proposal:

- A. Hourly Rate - the CONTRACTOR shall be compensated per the attached Pricing Sheet (**Attachment "B"**) the negotiated hourly rate for each hour of time engaged directly in the work. The CONTRACTOR will provide a detailed breakdown for hours spent on each individual project.
- B. Reimbursable Expenses - The CONTRACTOR shall be compensated for certain work-related expenditures not covered by fees for contracting services, provided such expenditures are previously authorized, in writing, by the COUNTY in an approved Proposal. Miscellaneous expenses such as fax, telephone, copies and tolls will not be included as reimbursable expenses. Upon receipt of satisfactory back up materials, the CONTRACTOR will be compensated for such pre-approved reimbursable expenses on a direct cost basis.
- C. At least thirty (30) days prior to each anniversary date of this Agreement either party may request an adjustment to the rates provided for herein to apply in the forthcoming year. Failure of the parties to agree on a new rate schedule shall constitute a basis for issuing a Notice of Termination by the COUNTY. Any proposed change in rates by the CONTRACTOR shall be subject to the prior approval of the COUNTY.
- D. In the event CONTRACTOR experiences any delay resulting from circumstances beyond its control, or a change in the scope of work which will result in an increase or decrease in a Proposal's price or time, CONTRACTOR shall provide immediate notice to the COUNTY for consideration of additional compensation or time. Additional compensation shall be limited to direct costs resulting from the delay or change in work as provided in Section V of this Agreement.

#### SECTION VI - PAYMENT AND PARTIAL PAYMENTS

Subject to the COUNTY'S right to withhold any amounts reasonably necessary to complete or correct defective or substandard work, the COUNTY shall make monthly payments or partial payments to the CONTRACTOR for all authorized work in accordance with the "Florida Prompt Payment Act."

- A. The CONTRACTOR shall submit two (2) original, signed Applications for

Payment to the COUNTY. Invoices may be submitted for Preventative Maintenance services.

- B. The amount of each Payment Application submitted shall be the amount due for all services performed to date in connection with authorized Work, as certified by the CONTRACTOR. Each Payment Application shall include any authorized reimbursable expenses and must reference the particular Proposal/Project which authorized the services performed. The Payment Application shall be accompanied by copies of invoices for reimbursable expenses, including materials stored on site.
- C. Payment Applications shall include a breakdown for each part of the Work billed for each item and personnel as identified on the Pricing Sheet (**Attachment "A"**).
- D. The CONTRACTOR shall be responsible for submitting original Release of Liens to the COUNTY for all Notice to Owners on file with the COUNTY. Original, notarized releases must be received by the COUNTY before payments will be processed.

#### SECTION VII - SCHEDULE OF WORK

The COUNTY shall have the sole right to determine which units or sections of the work the CONTRACTOR shall proceed with first and in what order the work shall occur.

#### SECTION VIII - RIGHT OF DECISIONS

All services shall be performed by the CONTRACTOR to reasonable professional standards and practices and to the reasonable requirements of the COUNTY. The Facilities Building & Operations Manager, or designee, shall decide and dispose of all claims, questions and disputes arising under this Agreement. In the event the CONTRACTOR does not concur with the decision of the Facilities Building Operations Manager, or designee, the CONTRACTOR shall present any such objections in writing to the Central Services Department Director within ten (10) calendar days and request the issues be referred to a review board of three (3) members selected by the County Manager from Department Directors and Assistant County Managers for review and disposition at a hearing to be held within ten (10) calendar days after receipt of the request for review. This paragraph does not constitute a waiver of either party's right to proceed in a court of competent jurisdiction, provided that prior to filing any suit the CONTRACTOR goes through the review process established in this Agreement and provided further that the CONTRACTOR strictly abides by the ten (10) day time deadline set forth in this paragraph.

#### SECTION IX - OWNERSHIP OF DOCUMENTS

Possession of all reports, tracing, plans, specifications, maps, contract documents and/or other work products developed by the CONTRACTOR pursuant to this Agreement shall remain with the CONTRACTOR. The COUNTY retains the right of use of these documents at their own risk. When each individual section of work requested pursuant to this Agreement is

complete, all of the above work products shall be delivered to the COUNTY for its use. Notwithstanding the above paragraph, the CONTRACTOR understands its obligations and responsibilities under Section II of this Agreement.

#### SECTION X - NOTICES

Any notices from the CONTRACTOR to the COUNTY shall be considered delivered when posted by certified mail or delivered in person to Brevard County Facilities at the following address:

**Brevard County Board of County Commissioners  
Facilities  
2725 Judge Fran Jamieson Way, Building A  
Viera, Florida 32940**

Any notices from the COUNTY to the CONTRACTOR shall be considered delivered when posted by certified mail to the CONTRACTOR at the last address left on file with the COUNTY or delivered in person to said CONTRACTOR.

#### SECTION XII - AUDIT RIGHTS

The COUNTY or any of its duly authorized representatives reserves the right to audit the records of the CONTRACTOR related to this Agreement at any time during the prosecution of the work included herein and for a period of three (3) years after final payment is made.

Both parties understand that Brevard County is subject to the Florida Public Records Law, Chapter 119, Florida Statutes. "Public Records" are defined "all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency" Fla. Stat. 119.011(12).

Pursuant to Florida Statute Chapter 119, generally, and 119.0701 specifically, if records created by the COUNTY or the CONTRACTOR related to the performance of the services under this Agreement do not fall under a specific exemption under Florida or federal law, the records - whether created or maintained by the CONTRACTOR or the COUNTY- must be provided to anyone making a public records request. It will be the CONTRACTOR'S duty to identify any information in records created by the CONTRACTOR which it deems is exempt under Florida or federal law and identify the statute number which requires the information be held exempt.

A request to inspect or copy public records relating to this Agreement 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 COUNTY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided pursuant to Florida Statute Chapter 119 and Brevard County Board Policy.

Should any person or entity make a public records request of the COUNTY which requires or would require the COUNTY to allow inspection or provide copies of records which the CONTRACTOR maintains are exempt under the Public Records Law or otherwise confidential, it shall be the CONTRACTOR'S obligation to provide the County within a reasonable time of notification by the COUNTY to the CONTRACTOR of the records request, of the specific exemption or confidentiality provision to allow the COUNTY to comply with the requirements of Florida Statute 119.07(1)(e) and (f). Should the COUNTY face any kind of legal action to require or enforce inspection or production of any records provided by the CONTRACTOR to the COUNTY which the CONTRACTOR maintains are exempt or confidential from such inspection/production as a public record, the CONTRACTOR shall hire and compensate attorney(s) who shall represent the interests of the COUNTY as well as the CONTRACTOR in defending such action. The CONTRACTOR shall also pay any costs to defend such action and shall pay any costs and attorney's fees which may be awarded pursuant to Fla. Stat. 119.12.

Should the CONTRACTOR fail to provide the public records to the COUNTY within a reasonable time, the CONTRACTOR is subject to penalties under s.119.10.

The CONTRACTOR shall ensure that all public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if the CONTRACTOR does not transfer the records to the COUNTY.

Upon completion of the Agreement, the CONTRACTOR shall transfer, at no cost, to the COUNTY all public records in possession of the CONTRACTOR or keep and maintain public records required by the COUNTY to perform the service. If the CONTRACTOR transfers all public records to the COUNTY upon completion of the Agreement, the CONTRACTOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the CONTRACTOR keeps and maintains public records upon completion of the Agreement, the CONTRACTOR shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the COUNTY, upon request from the COUNTY's custodian of public records, in a format that is compatible with the information technology systems of the COUNTY.

**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) 633-2050.**

#### SECTION XIII - SUBCONTRACTING

The CONTRACTOR shall not subcontract, assign, or transfer any work under this Agreement without the prior written approval of the COUNTY. When applicable, the CONTRACTOR shall include/disclose the names of any subcontracted firms responsible for

major portions (or separate specialty) of the work to be included in any applicable proposal for Work identifying the Work or service to be provided by the subcontracted firm.

#### SECTION XIV - CONTINGENT FEES

The CONTRACTOR represents that no person or company was employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting bona fide employee, any fee commission, contribution, donation, gift or any other consideration, contingent upon, or resulting from award of this Agreement. For any breach violation of this provision, the COUNTY shall have the right to terminate this Agreement, without liability, and, at its discretion, to deduct from the contract price or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration and any damages and shall be responsible for reporting the details of such breach or violation to the proper legal authorities where and when appropriate.

#### SECTION XV - TERMINATION/MODIFICATION OF AGREEMENT

- A. The COUNTY or the CONTRACTOR may terminate this Agreement upon thirty (30) days written notice, provided that any outstanding approved Project, upon which a Notice to Proceed has been issued, is completed by the CONTRACTOR.
- B. In the event of termination by either party, the COUNTY'S sole obligation to the CONTRACTOR shall be payment for those portions of satisfactorily, completely performed work previously authorized by approved Proposal. Such payment shall be determined on the basis of hours of work performed by the CONTRACTOR and agreed upon by the COUNTY up to the time of termination. In the event of such termination, the COUNTY may, without penalty or other obligation to the CONTRACTOR, elect to employ other persons to perform the same or similar services.
- C. The terms of this Agreement may be modified upon the mutual agreement of the CONTRACTOR and the COUNTY as confirmed in writing.
- D. In the event that the CONTRACTOR changes his name, merges with another company, becomes a subsidiary or makes other substantial change in structure or in principals, the COUNTY reserves the right to terminate this Agreement subject to the terms prescribed above.

#### SECTION XVI - DURATION OF AGREEMENT

This Agreement shall remain in full force and effect for a period of one (1) year after its date of execution; however, the Contractor shall complete any work for which a Notice to Proceed has been issued within the one year period and, and shall be compensated pursuant to Attachment "A". The performance of specially and properly authorized projects may extend beyond the Agreement's one-year effective term and shall be compensated in accordance with Section V hereof. In addition, subject to the COUNTY'S sole discretion this Agreement may be extended in one (1) year increments for up to three (3) years beyond the initial one (1) year period of the Agreement only if no change in price is proposed by the CONTRACTOR.

Modifications and/or changes to this Agreement, including Attachment "A" Pricing Sheet, will require approval by the Brevard County Board of County Commissioners.

#### SECTION XVII - DEFAULT

In the event the CONTRACTOR fails to comply with the provisions of this Agreement, the COUNTY may declare the CONTRACTOR in default by written notification. In the event partial payment has been made for services not completed, the CONTRACTOR shall return any sums due to the COUNTY as a result of CONTRACTOR'S default within ten (10) days after notice and demand that said sums are due. The CONTRACTOR shall not be compensated for any deficient services which have been performed at the time the COUNTY declares a default. The COUNTY shall pay for only that portion, if any, of the satisfactorily performed work which is used or useful by any other CONTRACTOR retained by the COUNTY to finish the work to the extent that the COUNTY does not incur additional costs over those set forth in the CONTRACTOR'S canceled Task Order.

Any default by the COUNTY for cause which is later determined to be invalid shall be considered a termination by the COUNTY for convenience and compensated as provided in Section XV.

#### SECTION XVIII - INDEMNIFICATION AND INSURANCE

The CONTRACTOR shall provide insurance policies with insurers acceptable to the COUNTY. The CONTRACTOR shall provide and maintain at all times during the terms of the Agreement, without cost or expense to the COUNTY, policies of insurance which shall cover the CONTRACTOR for any and all claims, demands, and expenses whatsoever, including defense and causes for action for general damages, bodily injury and property damage arising out of or to the extent caused by negligent acts, errors or omissions of the CONTRACTOR. Said policies shall provide limits in the amount not less than \$1,000,000.00 per occurrence to cover any and all claims arising in connection with any particular accident or occurrence. The COUNTY shall be named an additional insured under this policy for Work that is performed pursuant to this Agreement.

The CONTRACTOR shall provide and maintain Workers' Compensation insurance (for statutory limits) for all workers to provide services under the scope of this Agreement.

The CONTRACTOR shall provide the COUNTY with Certificates of Insurance on all policies of insurance within ten (10) days of execution of this Agreement, and any renewals thereof within ten (10) days of renewal. The COUNTY shall be entitled to thirty (30) days written notice of any changes or cancellations of said policies. These insurance requirements shall not relieve or limit the liability of the CONTRACTOR. The COUNTY does not in any way represent that these types or amounts of insurance are sufficient or adequate to protect the CONTRACTOR'S interests or liabilities, but are merely minimums.

The CONTRACTOR agrees to indemnify, defend and hold the COUNTY harmless against any and all claims, causes of action or liability for bodily injury, sickness, disease, death or personal injury or damage to property or loss of use resulting therefrom to the extent caused

by negligent acts, errors or omissions of the CONTRACTOR. The CONTRACTOR agrees to indemnify and pay on behalf of the COUNTY the cost of the COUNTY'S legal defense of all claims described herein. Such payment on behalf of the COUNTY shall be in addition to any and all other legal remedies available to the COUNTY and shall not be considered to be the COUNTY'S exclusive remedy. It is agreed by the parties hereto that specific consideration has been paid under this Agreement for this hold harmless provision.

#### SECTION XIX - QUALITY CONTROL

The CONTRACTOR shall provide a high level of quality control and accuracy. The COUNTY may request additional data collection or re-analysis of data at no expense to the COUNTY. If the original data collected and/or the data analysis is found to be accurate and reasonable, the CONTRACTOR shall be compensated for the additional work in accordance with Section V of this Agreement.

The CONTRACTOR acknowledges that the COUNTY will periodically evaluate the CONTRACTOR'S performance and that the evaluation will be used by the COUNTY in determining the CONTRACTOR'S qualifications for future work under this Agreement with the COUNTY and for future contracts with the COUNTY.

#### SECTION XX - NON EXCLUSIVE AGREEMENT

The parties acknowledge that this Agreement is not an exclusive Agreement and the COUNTY may employ other contractors, engineers, professional or technical personnel to furnish services for the COUNTY, as the COUNTY, in its sole discretion, finds is in the public interest.

The COUNTY reserves the right to assign such work to the CONTRACTOR as it may approve in the sole discretion of the COUNTY.

#### SECTION XXI - TRUTH IN NEGOTIATIONS

In accordance with the provisions of Chapter 287.055, Florida Statutes, the CONTRACTOR agrees to execute a truth-in-negotiations certificate (Attachment "B") and agrees the original contract price and any additions may be adjusted to exclude any significant sums by which the contract price was increased due to inaccurate, incomplete or non-current wage rates and other factual unit costs.

#### SECTION XXII - INTEREST OF OFFICERS AND OTHERS

No officers, members or employees of the COUNTY, and no members of its governing body, and no other public official of the governing body of the locality or localities in which services for the facilities are situated or carried out, who exercised any functions or responsibilities in the review or approval of the undertaking or carrying out of this project, shall participate in any decision relating to this Agreement which affects their personal interest, or have any personal or pecuniary interest, direct or indirect, in this Agreement or the proceeds thereof.

#### SECTION XXIII - INTEREST OF CONTRACTOR

The CONTRACTOR covenants that it presently has no conflict of interest and shall not acquire any interest, direct or indirect, which shall conflict in any manner or degree with the performance of services required to be performed under this Agreement. The CONTRACTOR further covenants that in the performance of this Agreement no person having any such interest shall be employed.

SECTION XXIV - ASSIGNMENT AND GOVERNING LAW

Neither the COUNTY nor the CONTRACTOR shall assign his interest in this Agreement without the written consent of the other except as to the assignment of proceeds. This Agreement shall be governed by the Laws of the State of Florida.

Venue: Venue for any legal 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.

Severability: If any provision of this Agreement is held by a Court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired.

Attorney's Fees: In the event either party must undertake legal action to enforce any provision of this contract, each party shall bear their own attorney's fees and costs, and any trial shall be non-jury.

SECTION XXV - ENTIRETY OF AGREEMENT

This writing, together with the original Request for Proposal, Addenda, approved Proposals and signed Notice to Proceeds that may follow, embody the entire Agreement and understanding between the parties hereto, and there are no other agreements and understandings, oral or written, with reference to the subject matter hereof that are not merged herein.

No alteration, change or modification of the terms of this Agreement shall be valid unless made in writing, signed by both parties hereto as an addendum to this Agreement.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals on the day and year first above written.

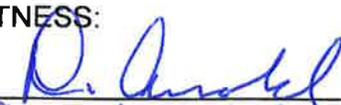
ATTEST:

  
\_\_\_\_\_  
Scott Ellis, Clerk

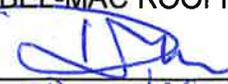
BREVARD COUNTY BOARD OF  
COUNTY COMMISSIONERS:

  
\_\_\_\_\_  
Rita Pritchett, Chair      OCT 10 2017  
As Approved By the Board: \_\_\_\_\_

WITNESS:

  
\_\_\_\_\_  
By: Dan Arnold, Sr. Project mgr.

BEL-MAC ROOFING

  
\_\_\_\_\_  
By: Douglas J. Moss, General Manager

STATE OF FLORIDA §  
COUNTY OF Brevard §

I HEREBY CERTIFY that before me, an officer duly authorized to take acknowledgments, personally appeared Douglas J. Moss who is personally known to me or provided n/a as identification and who did (did not) take an oath, acknowledged before me that they executed the within instrument freely and voluntarily for the purposes therein expressed.

WITNESS my hand and official seal in the State and County last aforesaid this 2nd day of August 2018.



Kim E. Rindge  
\_\_\_\_\_  
(SEAL) Signature  
Kim E. Rindge  
\_\_\_\_\_  
Notary Name (typed or printed)

# ATTACHMENT "A"

## FEMA CLAUSES AND CERTIFICATIONS

During the performance of this Agreement, the CONTRACTOR agrees as follows:

1. The CONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The CONTRACTOR will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The CONTRACTOR agrees to post in conspicuous places, available to all employees and applicants for employment, notices to be provided setting forth the provisions of this non-discrimination clause.
2. The CONTRACTOR will, in all solicitations or advertisements for employees placed by or on behalf of the CONTRACTOR, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
3. The CONTRACTOR will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or worker's representatives of the CONTRACTOR's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The CONTRACTOR will comply with all provisions of Executive Order 11246 of September 24, 1965, and the rules, regulations and relevant orders of the Secretary of Labor.
5. The CONTRACTOR will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
6. In the event of the CONTRACTOR's non-compliance with the non-discrimination clauses of this Agreement or with any of the said rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the CONTRACTOR may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
7. The CONTRACTOR will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The

CONTRACTOR will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance, provided, however, that in the event the CONTRACTOR becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the CONTRACTOR may request the United States to enter into such litigation to protect the interests of the United States.

8. **Clean Air Act and the Federal Water Pollution Control Act:** (For all contracts in excess of \$150,000)

A. **Clean Air Act –**

- i. The CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- ii. The CONTRACTOR agrees to report each violation to the COUNTY through its Facilities Department and understands that the Brevard County Facilities Department will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- iii. The CONTRACTOR agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

B. **Federal Water Pollution Control Act -**

- i. The CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
- ii. The CONTRACTOR agrees to report each violation to the COUNTY through its Facilities Department and understands and agrees that the Brevard County Facilities Department will, in turn, report each violation to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- iii. The CONTRACTOR agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

9. **Suspension and Debarment:**

- A. This Agreement is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the CONTRACTOR is required to verify that neither the CONTRACTOR, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- B. The CONTRACTOR must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

- C. This certification is a material representation of fact relied upon by the COUNTY. If it is later determined that the CONTRACTOR did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the State of Florida (Division of Emergency Management) and the County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- D. The CONTRACTOR agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this Agreement is valid. The CONTRACTOR agrees to include a provision requiring such compliance in its lower tier covered transactions.

10. **Byrd Anti-Lobbying Amendment, 31 U.S.C. . § 1352 (as amended):**

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

11. **Procurement of Recovered Materials:**

In the performance of this Agreement, the CONTRACTOR shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired:

- A. Competitively within a timeframe providing for compliance with the Agreement performance schedule;
- B. Meeting Agreement performance requirements; or
- C. At a reasonable price.

Information about this requirement, along with the list of EPA-designate items, is available at EPA's Comprehensive Procurement Guidelines website at <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

12. **Additional FEMA Requirements:**

A. **Access to Records:**

- i. The CONTRACTOR agrees to provide the COUNTY, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers and records of the CONTRACTOR which are directly pertinent to this Agreement for the purposes of making audits, examinations, excerpts and transcriptions.

- ii. The CONTRACTOR agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- iii. The CONTRACTOR agrees to provide the FEMA Administrator or his authorized representative access to construction or other work sites pertaining to the work being completed under the Agreement.

**B. DHS (Department of Homeland Security) Seal, Logo and Flags:**

The CONTRACTOR shall not use DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

**C. Compliance with Federal Law, Regulations and Executive Orders:**

The CONTRACTOR acknowledges that FEMA financial assistance will be used to fund this Agreement and resulting Agreements only. The CONTRACTOR will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures and directives.

**D. No Obligation by Federal Government:**

The Federal Government is not a party to this Agreement and is not subject to any obligations or liabilities to the non-Federal entity, CONTRACTOR, or any other party pertaining to any matter resulting from the Agreement.

**E. Fraud and False or Fraudulent or Related Acts:**

The CONTRACTOR acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the CONTRACTOR's actions pertaining to this Agreement.

# ATTACHMENT "B"

RFP-4-18-12  
PRICING SHEET  
BEL-MAC ROOFING

## HOURLY RATE FOR LABOR

DESCRIPTION	HOURLY RATE
FOREMAN	\$38.00
ROOFER	\$37.00
ROOFER APPRENTICE	\$ 8.25
METAL INSTALLER	\$18.00
METAL INSTALLER APPRENTICE	\$ 8.25
LABORER	\$15.00

## PREVENTATIVE MAINTENANCE

ANNUAL PREVENTATIVE MAINTENANCE, PER PM SERVICE, PER FACILITY	\$900.00
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## MATERIALS

All materials furnished by the Contractor if and when requested by Brevard County Facilities Department shall be the Contractor's actual cost plus 1.5%

# **ATTACHMENT "C"**

## **PUBLIC ENTITY CRIME AFFIDAVIT**

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 CONTRACTOR 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.

## **CONTINUING CIVIL ENGINEERING DESIGN CONSULTANT SERVICES AGREEMENT**

This is an Agreement entered into this 12th day of July 2018, by and between **BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS**, a political subdivision of the State of Florida, hereinafter referred to as COUNTY and **BRPH**, a corporation under the laws of the State of Florida, hereinafter referred to as CONSULTANT, whose address is 5700 N. Harbor City Boulevard, Suite 400, Melbourne, Florida 32940.

WHEREAS, the County has a need for the services of a consultant to provide civil engineering design services under a continuing contract per Florida Statute 287.055;

WHEREAS, the County issued a Request for Qualifications #RFQ-4-18-09 for such services and has selected the CONSULTANT to provide said services;

WHEREAS, this is an Agreement for professional services for projects in which the construction costs do not exceed \$2 million, for study activity when the fee for services for each study does not exceed \$200,000, or for work of a specified nature projects, that may be funded or submitted for reimbursement by/through the Federal Emergency Management Agency, as outlined herein.

For and in consideration of the mutual agreement hereinafter contained, the COUNTY hereby retains the CONSULTANT and the CONSULTANT hereby covenants to provide continuing mechanical/electrical/plumbing design services as prescribed herein.

### **SECTION I - GENERAL IDENTIFICATION OF SERVICES**

All continuing civil engineering design services provided by the CONSULTANT for the COUNTY shall be identified in Work Orders. Work Orders shall entail a description of services to be performed, a statement of fees, proposed schedule for compensation, a projected schedule for completion of the work, project team members assigned to supervise/perform services provided under the Work Order, and any other terms or conditions specific to the Work Order to be performed by the CONSULTANT, including terms that may be specific to projects that may be funded or submitted for reimbursement by/through the Federal Emergency Management Agency. A Work Order shall not give rise to any contractual rights until approved by the COUNTY in the form of a written Notice to Proceed signed by an authorized representative of the COUNTY. The written Notice to Proceed and specific Work Order, as approved by the COUNTY, shall together constitute an addendum to this Agreement.

The Federal Emergency Management Agency (FEMA) Clauses and Certifications included herein, or attached hereto, control over any conflicting clauses contained within the separate Agreements, covering the work for each Project, between the COUNTY and the CONSULTANT, when the Work involved will be submitted by/through FEMA for reimbursement to the COUNTY. The FEMA Clauses and Certifications are attached hereto, and incorporated by this reference,

as Attachment "A."

## **SECTION II - COUNTY OBLIGATIONS**

The COUNTY shall furnish to the CONSULTANT, upon request, any data available in the COUNTY'S files pertaining to the work to be performed under this Agreement.

## **SECTION III - CONTINUING DESIGN CONSULTANT SERVICES**

Upon receipt of a Notice to Proceed on a Work Order, CONSULTANT agrees to perform continuing civil engineering design services associated with the requested work in accordance with the negotiated terms of the applicable Work Order, and in accordance with accepted professional standards and practices. The CONSULTANT agrees to correct any errors and omissions and prepare any revisions which may be required because the CONSULTANT'S plans and specifications were found defective, without any increase in price of the applicable Work Order. This remedy shall be cumulative to all other remedies available under law.

In connection with continuing civil engineering design services to be rendered pursuant to this Agreement, the CONSULTANT further agrees to:

- A. Maintain an adequate staff of qualified personnel;
- B. Comply with federal, state and local laws applicable to the work;
- C. Cooperate fully with the COUNTY in the scheduling and coordination of all phases of the work;
- D. Cooperate and coordinate with other COUNTY consultants, as directed by the COUNTY;
- E. Report the status of the work to the COUNTY upon request and hold pertinent data, calculations, field notes, records, sketches and other projects open to the inspection of the COUNTY or its authorized agent at any time;
- F. Submit for COUNTY review design computations, sketches and other data representative of the work's progress at the percentage stages of completion which may be stipulated in the applicable Work Order. **This shall include a Division 16 Estimate of Probable Construction Cost at each design submittal.** Submit for COUNTY approval the final work product upon incorporation of any modifications requested by the COUNTY during any previous reviews. Any COUNTY approval of the CONSULTANT'S plans, design or specifications shall not be deemed to diminish the CONSULTANT'S responsibility;
- G. Confer with the COUNTY during the further development and implementation of improvements for which the CONSULTANT has provided design or other services;
- H. Interpret plans and other documents, correct CONSULTANT errors and omissions and prepare any necessary plan revisions not involving change in the scope of work required, at no additional cost;
- I. Prior to final approval of the work by the COUNTY, as Owner, the CONSULTANT

shall submit any of CONSULTANT'S construction documents to any review committee, third party consultant or any county, city, state or federal agency from which a permit or other approval is required, and revise CONSULTANT'S construction documents as may be required by such permitting or approval agencies. Any approval obtained from the COUNTY or any other agency shall not be deemed to diminish or discharge the CONSULTANT'S responsibility provided for in this Agreement.

Regarding any resulting construction, the CONSULTANT will review all pre-qualification documents, bids and make recommendations regarding award to the lowest responsible bidder. The CONSULTANT shall review and approve the contractor's Schedule of Values.

Prior to commencement of construction, the CONSULTANT shall attend a pre-construction conference. Representatives from the Owner, Contractor and CONSULTANT shall attend to discuss policies and procedures to be followed during the construction period, and answer questions regarding design intent, clarification or interpretation of the construction documents.

The CONSULTANT will review and approve or reject, as appropriate, all Contractor Applications for Payment submitted during the construction of work.

The CONSULTANT will review and approve or reject, as appropriate, all contractor submitted as-built drawings, warranties and operation and maintenance manuals for completeness and conformance with the contract requirements and submit to the Owner indicating their approval.

The CONSULTANT will prepare record drawings and specifications showing significant changes in the work made during construction based on marked-up prints, drawings and other data furnished by the contractor to the CONSULTANT, utilizing AutoCad Release 12 or newer software or compatible approved by the Owner. **One (1) set of reproducible record drawings, in electronic format, is to be submitted to the Owner with Certificate of Final Completion.**

The CONSULTANT will prepare and distribute meeting minutes at all design phase meetings and progress meetings, in a format approved by the Owner. In addition to the regular scheduled construction site visits and progress meetings, this Agreement shall include, at no additional cost to the Owner, the Substantial & Final Completion Inspection(s) and the warranty inspection with the appropriate written reports and certifications.

The CONSULTANT shall respond promptly and completely to all Requests For Information or clarifications regarding the drawings and specifications so as not to cause a delay in the construction schedule.

#### **SECTION IV - TIME OF COMPLETION**

The services to be rendered by the CONSULTANT for each section of the work shall commence upon receipt of a written Notice to Proceed from the COUNTY subsequent to the execution of the Agreement, and shall be completed within the time stated in the Work Order.

#### **SECTION V - COMPENSATION**

The COUNTY agrees to pay and the CONSULTANT agrees to accept, for services rendered pursuant to this Agreement, fees and other compensation computed in accordance with one or a combination of the methods outlined below, and as specified in an approved Work Order:

- A. **Hourly Rate** - the CONSULTANT shall be compensated at the attached Hourly Rate Schedule (Attachment "B") for each hour of time engaged directly in the work.
- B. **Reimbursable Expenses** - The CONSULTANT shall be compensated for certain work-related expenditures not covered by fees for consulting services, provided such expenditures are previously authorized by the COUNTY in an approved Work Order. Upon receipt of satisfactory back up materials, the CONSULTANT will be compensated for such reimbursable expenses. Such expenses may include:
  - 1. Expenses for document reproduction. These expenses shall be reimbursed on a direct cost basis.
  - 2. Mileage – These expenses shall be reimbursed at the COUNTY's authorized cost (¢) per mile.
- C. At least thirty (30) days prior to each anniversary date of this Agreement either party may request an adjustment to the rates provided for herein to apply in the forthcoming year. Failure of the parties to agree on a new rate shall constitute a basis for issuing a Notice of Termination by the COUNTY. Any proposed change in rates by the CONSULTANT shall be subject to the prior approval of the COUNTY.
- D. In the event CONSULTANT experiences any delay resulting from circumstances beyond its control, or a change in the scope of work which will result in an increase or decrease in a Work Order's price or time, CONSULTANT shall provide immediate notice to the COUNTY for consideration of additional compensation or time. Additional compensation shall be limited to direct costs resulting from the delay or change in work.

#### **SECTION VI - PAYMENT AND PARTIAL PAYMENTS**

Subject to the COUNTY'S right to withhold any amounts reasonably necessary to complete or correct defective or substandard work, the COUNTY shall make monthly payments or partial payments to the CONSULTANT for all authorized work performed during the previous calendar month in accordance with the "Florida Prompt Payment Act."

- A. The CONSULTANT shall submit signed invoices to the COUNTY;
- B. The amount of each invoice submitted shall be the amount due for all services performed to date in connection with authorized work, as certified by the CONSULTANT. Each invoice shall include any authorized reimbursable expenses and must reference the particular Work Order which authorized the services performed. The invoice shall be accompanied by copies of invoices for reimbursable expenses;

- C. Invoices for work other than lump sum shall include a breakdown for each part of the work billed for each item and personnel as identified in Attachment "A". Copies of all invoices paid by the CONSULTANT for expenses shall be included with the CONSULTANT's invoice.

#### **SECTION VII - SCHEDULE OF WORK**

The COUNTY shall have the sole right to determine on which units or sections of the work the CONSULTANT shall proceed with and in what order. Should a Work Order revision cause a change in scope, cost or schedule, the CONSULTANT shall submit such revisions for review and, if warranted, approval by the COUNTY in writing.

#### **SECTION VIII - RIGHT OF DECISIONS**

All services shall be performed by the CONSULTANT to reasonable professional standards and practices and to the reasonable requirements of the COUNTY. COUNTY staff shall decide and dispose of all claims, questions and disputes arising under this Agreement. Such determination shall be final, conclusive and binding upon the parties hereto unless such determination is clearly arbitrary or unreasonable. In the event the CONSULTANT does not concur with the decisions of the COUNTY, within ten (10) calendar days after determination by COUNTY staff, the CONSULTANT shall present any such objections in writing to COUNTY staff and, upon request, any adverse determination shall be referred to an appeal board comprised of a representative of Purchasing Services, of the County Manager's Office and of the Facilities Department for review and disposition at a hearing to be held within ten (10) calendar days after receipt of the appeal.

This paragraph does not constitute a waiver of either party's right to proceed in a court of competent jurisdiction, provided that prior to filing any suit the CONSULTANT goes through the appeal process established in this Agreement and provided further that the CONSULTANT strictly abides by the ten day time deadline set forth in this paragraph.

#### **SECTION IX - OWNERSHIP OF DOCUMENTS**

All reports, tracings, plans, specifications, maps, contract documents and other work products developed by the CONSULTANT pursuant to this Agreement shall become the property of the COUNTY. When each individual section of work requested pursuant to this Agreement is complete, all of the above work products shall be delivered to the COUNTY for its use.

#### **SECTION X - REUSE OF DOCUMENTS**

The CONSULTANT may not reuse plans, specifications or reports specifically developed by the CONSULTANT for the COUNTY without express written permission from the COUNTY. The COUNTY may reuse any plans, specifications or reports provided under this Agreement under the following conditions:

- (a) The COUNTY shall notify the CONSULTANT of such reuse;
- (b) The COUNTY and CONSULTANT shall agree to compensation for such reuse;
- (c) The provisions of Florida Statutes 287.055 (10) are followed; and
- (d) The County shall hold CONSULTANT harmless from any property damage or personal injury which may result from such reuse.

## **SECTION XI - NOTICES**

Any legal notices from the CONSULTANT to the COUNTY shall be considered delivered when posted by certified mail or delivered in person to the COUNTY.

Any legal notices from the COUNTY to the CONSULTANT shall be considered delivered when posted by certified mail to the CONSULTANT at the last address left on file with the COUNTY or delivered in person to CONSULTANT or the CONSULTANT'S authorized representative.

Notice under this Agreement shall be given as above to the following authorized representatives:

### On behalf of the County:

Brevard County Public Works - Facilities  
Attn: Mary Bowers, Support Services Manager  
2725 Judge Fran Jamieson Way, Building A-207  
Viera, Florida 32940

### On behalf of the CONSULTANT

BRPH  
Attn: Jason Abbott, Director of Civil Engineering  
5700 N. Harbor City Boulevard, Suite 400  
Melbourne, Florida 32940

## **SECTION XII - AUDIT RIGHTS/PUBLIC RECORDS**

The COUNTY or any of its duly authorized representatives reserves the right to audit the records of the CONSULTANT related to this Agreement at any time during the prosecution of the work included herein and for a period of three (3) years after final payment is made.

Both parties understand that Brevard County is subject to the Florida Public Records Law, Chapter 119, Florida Statutes. "Public Records" are defined "all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency" Fla. Stat. 119.011(12).

Pursuant to Florida Statute Chapter 119, generally, and 119.0701 specifically, if records created by the COUNTY or the CONSULTANT related to the performance of the services under this Agreement do not fall under a specific exemption under Florida or federal law, the records - whether created or maintained by the CONSULTANT or the COUNTY- must be provided to anyone making a public records request. It will be the CONSULTANT'S duty to identify any information in records created by the CONSULTANT which it deems is exempt under Florida or federal law and identify the statute number which requires the information be held exempt.

A request to inspect or copy public records relating to this Agreement must be made directly to the COUNTY. If the COUNTY does not possess the requested records, the COUNTY shall

immediately notify the CONSULTANT of the request, and the CONSULTANT must provide the COUNTY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided pursuant to Florida Statute Chapter 119 and Brevard County Board Policy.

Should any person or entity make a public records request of the COUNTY which requires or would require the COUNTY to allow inspection or provide copies of records which the CONSULTANT maintains are exempt under the Public Records Law or otherwise confidential, it shall be the CONSULTANT'S obligation to provide the County within a reasonable time of notification by the COUNTY to the CONSULTANT of the records request, of the specific exemption or confidentiality provision to allow the County to comply with the requirements of Florida Statute 119.07(1)(e) and (f). Should the County face any kind of legal action to require or enforce inspection or production of any records provided by the CONSULTANT to the County which the CONSULTANT maintains are exempt or confidential from such inspection/production as a public record, the CONSULTANT shall hire and compensate attorney(s) who shall represent the interests of the County as well as the CONSULTANT in defending such action. The CONSULTANT shall also pay any costs to defend such action and shall pay any costs and attorney's fees which may be awarded pursuant to Fla. Stat. 119.12.

Should the CONSULTANT fail to provide the public records to the COUNTY within a reasonable time, the CONSULTANT is subject to penalties under s. 119.10.

The CONSULTANT shall ensure that all public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if the CONSULTANT does not transfer the records to the COUNTY.

Upon completion of the Agreement, the CONSULTANT shall transfer, at no cost, to the COUNTY all public records in possession of the CONSULTANT or keep and maintain public records required by the COUNTY to perform the service. If the CONSULTANT transfers all public records to the COUNTY upon completion of the Agreement, the CONSULTANT shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the CONSULTANT keeps and maintains public records upon completion of the Agreement, the CONSULTANT shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the COUNTY, upon request from the COUNTY's custodian of public records, in a format that is compatible with the information technology systems of the COUNTY.

**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) 633-2050.**

**SECTION XIII – SUBCONTRACTING**

The CONSULTANT shall not subcontract, assign, or transfer any work under this Agreement without the written approval of the COUNTY. When applicable, the CONSULTANT shall cause the names of any subcontracted firms responsible for major portions (or separate specialty) of the work to be inserted in the pertinent documents or data.

#### **SECTION XIV - CONTINGENT FEES**

The CONSULTANT represents that no person or company was employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except bona fide employee, any fee commission, contribution, donation, gift or any other consideration, contingent upon, or resulting from award of this Agreement.

For any breach or violation of this provision, the COUNTY shall have the right to terminate this Agreement, without liability, and, at its discretion, to deduct from the contract price or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration and any damages and shall be responsible for reporting the details of such breach or violation to the proper legal authorities where and when appropriate.

#### **SECTION XV - TERMINATION/MODIFICATION OF AGREEMENT**

- A. Either party may terminate this Agreement for any reason upon thirty (30) days written notice, provided that, in the event CONSULTANT so terminates, any outstanding approved Work Order upon which a Notice to Proceed has been issued is completed by the CONSULTANT.
- B. In the event of termination by the COUNTY, the COUNTY's sole obligation to the CONSULTANT shall be payment for those portions of work satisfactorily completed which were previously authorized by approved Work Order. Such payment shall be determined on the basis of hours of work performed by the CONSULTANT and agreed upon by the COUNTY up to the time of termination. In the event of such termination, the COUNTY may, without penalty or other obligation to the CONSULTANT, elect to employ other persons to perform the same or similar services.
- C. The terms of this Agreement may be modified upon the mutual agreement of the CONSULTANT and the COUNTY as confirmed in writing.
- D. In the event that the CONSULTANT changes the firm's name, merges with another company, becomes a subsidiary, substitutes any project team members, or makes other substantial change in structure or in principals, the COUNTY reserves the right to terminate this Agreement subject to the terms prescribed above.
- E. The CONSULTANT shall not be allowed to substitute project team members named in its response, during the course of the contract, without prior written permission of the COUNTY.

#### **SECTION XVI - DURATION OF AGREEMENT**

This Agreement shall remain in full force and effect for a period of one (1) year after its date of

execution, although actual completion of services hereunder may extend beyond such term, unless this Agreement is terminated by mutual consent of the parties as otherwise provided herein. The performance of specially and properly authorized projects may extend beyond the Agreement's one-year effective term and shall be compensated in accordance with Section IV hereof. In addition, subject to the COUNTY'S sole discretion, if no change in fees under Schedule "A" or paragraph V.D. is proposed, this Agreement may be extended in one (1) year increments for up to three (3) years beyond the initial one (1) year period of the Agreement.

#### **SECTION XVII – DEFAULT**

In the event the CONSULTANT fails to comply with the provisions of this Agreement, the COUNTY may declare the CONSULTANT in default by written notification. In the event partial payment has been made for continuing architectural and engineering services not completed, the CONSULTANT shall return any sums due to the COUNTY as a result of CONSULTANT'S default within ten (10) days after notice and demand that said sums are due. The CONSULTANT shall not be compensated on a percentage of any deficient continuing architectural and engineering services which have been performed at the time the COUNTY declares a default. The COUNTY shall pay for that portion, if any, of the performed work which is used or useful by any other consultant retained by the COUNTY to finish the work to the extent that the COUNTY does not incur additional costs over those set forth in the CONSULTANT's canceled Work Order. Any default by the COUNTY for causes which are later determined to be invalid shall be considered a termination by the COUNTY for convenience and compensated as provided in Section XV.

#### **SECTION XVIII - INDEMNIFICATION AND INSURANCE**

The CONSULTANT shall provide the following described insurance policies with insurers acceptable to the COUNTY. The CONSULTANT shall provide and maintain at all times during the terms of the Agreement, without cost or expense to the COUNTY, policies of insurance generally known as comprehensive general liability and auto liability policies, and professional errors and omissions liability coverage. These policies of insurance shall cover the CONSULTANT for any and all claims, demands, and expenses whatsoever, including defense and causes for action for general damages, bodily injury and property damage arising out of or to the extent caused by negligent acts, errors or omissions of the CONSULTANT. Said policies shall provide limits in the amount not less than \$500,000 per occurrence to cover any and all claims arising in connection with any particular accident or occurrence.

The CONSULTANT shall provide and maintain Workers' Compensation insurance (as required by law) for all employees to provide services under the scope of this Agreement. The COUNTY shall be entitled to thirty (30) days written notice of any changes or cancellations of said policies. These insurance requirements shall not relieve or limit the liability of the CONSULTANT. The COUNTY does not in any way represent that these types or amounts of insurance are sufficient or adequate to protect the CONSULTANT'S interests or liabilities, but are merely minimums.

The CONSULTANT agrees to indemnify, defend and hold the COUNTY harmless against any and all claims, causes of action or liability for bodily injury, sickness, disease, death or personal injury or damage to property or loss of use resulting therefrom to the extent caused by negligent acts, errors or omissions of the CONSULTANT. The CONSULTANT agrees to indemnify and

pay on behalf of the COUNTY the cost of the COUNTY'S legal defense of all claims described herein. Such payment on behalf of the COUNTY shall be in addition to any and all other legal remedies available to the COUNTY and shall not be considered to be the COUNTY's exclusive remedy. It is agreed by the parties hereto that specific consideration has been paid under this Agreement for this hold harmless provision. The COUNTY agrees to hold the CONSULTANT harmless from any property damage or personal injury which may result from the COUNTY'S negligent acts relating to the performance of this Agreement.

#### **SECTION XIX - QUALITY CONTROL**

The CONSULTANT shall provide a high level of quality control and accuracy. The COUNTY may request additional data collection or re-analysis of data at no expense to the COUNTY. If the original data collected and/or the data analysis is found to be accurate and reasonable, the CONSULTANT shall be compensated for the additional work in accordance with Section IV of this Agreement.

The CONSULTANT acknowledges that the COUNTY will periodically evaluate the CONSULTANT's performance and that the evaluation will be used by the COUNTY in determining the CONSULTANT'S qualifications for future contracts with COUNTY.

#### **SECTION XX - NON EXCLUSIVE AGREEMENT**

The parties acknowledge that this Agreement is not an exclusive Agreement and the COUNTY may employ other architects, engineers, professional or technical personnel to furnish services for the COUNTY, as the COUNTY, in its sole discretion, finds is in the public interest. The COUNTY reserves the right to assign such work to the CONSULTANT as it may approve in the sole discretion of the COUNTY.

#### **SECTION XXI - TRUTH IN NEGOTIATIONS**

In accordance with the provisions of Chapter 287.055, Florida Statutes, the CONSULTANT agrees to execute a truth-in-negotiations certificate (Attachment "B") and agrees the original contract price and any additions may be adjusted to exclude any significant sums by which the contract price was increased due to inaccurate, incomplete or non-current wage rates and other factual unit costs.

#### **SECTION XXII - INTEREST OF MEMBERS OF COUNTY AND OTHERS**

No officers, members or employees of the COUNTY, and no members of its governing body, and no other public official of the governing body of the locality or localities in which services for the facilities are situated or carried out, who exercised any functions or responsibilities in the review or approval of the undertaking or carrying out of this project, shall participate in any decision relating to this Agreement which affects their personal interest, or have any personal or pecuniary interest, direct or indirect, in this Agreement or the proceeds thereof.

The CONSULTANT shall not engage the services of any person or persons now employed by the County, including any department, agency, board or commission thereof, to provide the services relating to this Agreement without the written consent from the County.

**SECTION XXIII - INTEREST OF CONSULTANT**

The CONSULTANT covenants that it presently has no conflict of interest and shall not acquire any interest, direct or indirect, which shall conflict in any manner or degree with the performance of services required to be performed under this Agreement. The CONSULTANT further covenants that, in the performance of this Agreement, no person having any such conflict of interest shall be employed by the Consultant.

**SECTION XXIV - ENTIRETY OF AGREEMENT**

This writing, together with Work Orders and signed Authorizations to Proceed that may follow, embody the entire Agreement and understanding between the parties hereto, and there are no other agreements and understandings, oral or written, with reference to the subject matter hereof that are not merged herein.

No alteration, change or modification of the terms of this Agreement shall be valid unless made in writing, signed by both parties hereto as an addendum to this Agreement, or as specifically prescribed in a Work Order.

**SECTION XXV – GOVERNING LAW**

This Agreement, regardless of where executed, shall be governed by and construed according to the laws of the State of Florida.

**SECTION XVI – VENUE**

Venue for any legal action 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 nonjury and any trial shall be non-jury.

**SECTION XVII – ATTORNEYS FEES**

In the event either party sues the other to enforce the terms of this Agreement, or any Work Orders issued hereunder, each party shall bear its own attorney's fees and costs.

**SECTION XVIII – CONSTRUCTION OF AGREEMENT**

The parties hereby acknowledge that they fully reviewed this Agreement, its attachments and had the opportunity to consult with legal counsel of their choice, and that this Agreement shall not be construed against any party as if they were the drafter of this Agreement.

(intentionally left blank)

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals on the day and year first above written.

ATTEST:



  
\_\_\_\_\_  
Scott Ellis, Clerk

BREVARD COUNTY BOARD OF  
COUNTY COMMISSIONERS

  
\_\_\_\_\_

Rita Pritchett – Chairman

As Approved By The Board: OCT 10 2017

BRPH

By:   
\_\_\_\_\_  
Director of Civil, Principal  
8/6/18

# ATTACHMENT "A"

## FEMA CLAUSES AND CERTIFICATIONS

During the performance of this Agreement, the CONSULTANT agrees as follows:

1. The CONSULTANT will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The CONSULTANT will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The CONSULTANT agrees to post in conspicuous places, available to all employees and applicants for employment, notices to be provided setting forth the provisions of this non-discrimination clause.
2. The CONSULTANT will, in all solicitations or advertisements for employees placed by or on behalf of the CONSULTANT, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
3. The CONSULTANT will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or worker's representatives of the CONSULTANT's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The CONSULTANT will comply with all provisions of Executive Order 11246 of September 24, 1965, and the rules, regulations and relevant orders of the Secretary of Labor.
5. The CONSULTANT will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
6. In the event of the CONSULTANT's non-compliance with the non-discrimination clauses of this Agreement or with any of the said rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the CONSULTANT may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
7. The CONSULTANT will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The CONSULTANT will take such action with respect to any subcontract or purchase order

as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance, provided, however, that in the event the CONSULTANT becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the CONSULTANT may request the United States to enter into such litigation to protect the interests of the United States.

8. **Clean Air Act and the Federal Water Pollution Control Act:** (For all contracts in excess of \$150,000)

A. **Clean Air Act** –

- i. The CONSULTANT agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- ii. The CONSULTANT agrees to report each violation to the COUNTY through its Facilities Department and understands that the Brevard County Facilities Department will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- iii. The CONSULTANT agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

B. **Federal Water Pollution Control Act** -

- i. The CONSULTANT agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
- ii. The CONSULTANT agrees to report each violation to the COUNTY through its Facilities Department and understands and agrees that the Brevard County Facilities Department will, in turn, report each violation to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- iii. The CONSULTANT agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

9. **Suspension and Debarment:**

- A. This Agreement is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the CONSULTANT is required to verify that neither the CONSULTANT, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- B. The CONSULTANT must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- C. This certification is a material representation of fact relied upon by the COUNTY. If it is later determined that the CONSULTANT did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies

available to the State of Florida (Division of Emergency Management) and the County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

- D. The CONSULTANT agrees to comply with the requirements of 2 C.F.R. pt.180, subpart C and 2 C.F.R. pt. 3000, subpart C while this Agreement is valid. The CONSULTANT agrees to include a provision requiring such compliance in its lower tier covered transactions.

10. **Byrd Anti-Lobbying Amendment, 31 U.S.C. . § 1352 (as amended):**

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

11. **Procurement of Recovered Materials:**

In the performance of this Agreement, the CONSULTANT shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired:

- A. Competitively within a timeframe providing for compliance with the Agreement performance schedule;
- B. Meeting Agreement performance requirements; or
- C. At a reasonable price.

Information about this requirement, along with the list of EPA-designate items, is available at EPA's Comprehensive Procurement Guidelines website at <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

12. **Additional FEMA Requirements:**

A. **Access to Records:**

- i. The CONSULTANT agrees to provide the COUNTY, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers and records of the CONSULTANT which are directly pertinent to this Agreement for the purposes of making audits, examinations, excerpts and transcriptions.
- ii. The CONSULTANT agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- iii. The CONSULTANT agrees to provide the FEMA Administrator or his authorized representative access to construction or other work sites pertaining to the work being completed under the Agreement.

B. **DHS (Department of Homeland Security) Seal, Logo and Flags:**

The CONSULTANT shall not use DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

C. **Compliance with Federal Law, Regulations and Executive Orders:**

The CONSULTANT acknowledges that FEMA financial assistance will be used to fund this Agreement and resulting Agreements only. The CONSULTANT will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures and directives.

D. **No Obligation by Federal Government:**

The Federal Government is not a party to this Agreement and is not subject to any obligations or liabilities to the non-Federal entity, CONSULTANT, or any other party pertaining to any matter resulting from the Agreement.

E. **Fraud and False or Fraudulent or Related Acts:**

The CONSULTANT acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the CONSULTANT's actions pertaining to this Agreement.

# ATTACHMENT "B"

RFQ-4-18-09  
CONTINUING CIVIL ENGINEERING DESIGN SERVICES  
STANDARD HOURLY RATE SCHEDULE

POSITION	HOURLY RATE
Principal	\$160.00
Project Director/Manager	\$150.00
Project Engineer	\$140.00
Engineer	\$130.00
CAD Designer	\$90.00
CAD Drafter/Operator/Technician	\$70.00
Clerical/Admin/Word Processing	\$60.00

# **ATTACHMENT "C"**

## **PUBLIC ENTITY CRIME AFFIDAVIT**

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.

## PROFESSIONAL SERVICES CONTRACT

This is a CONTRACT by and between the Board of County Commissioners of Brevard County, Florida a political subdivision of the State of Florida, hereinafter referred to as COUNTY and Bussen Mayer Engineering Group, Inc., a business having its primary location at 100 Parnell Street, Merritt Island, FL 32953, hereinafter referred to as CONSULTANT.

WHEREAS, the COUNTY desires to engage the CONSULTANT to provide design and construction phase services for Indian River Lagoon Program Septic to Sewer Project Sykes Creek Zone M (Milford Point), as further described herein; and

WHEREAS, the CONSULTANT desires to provide such professional services in accordance with this Agreement, and has represented to the COUNTY that it has the competency and experience to perform such services in accordance with the terms and conditions as set forth herein; and

WHEREAS, the CONSULTANT has been selected to perform these professional services pursuant to the provisions of Section 287.055, Florida Statutes and Brevard County Policy BCC-26 (Acquisition of Consultant Professional Services); and

WHEREAS, the provisions of such services shall mutually benefit the parties hereto and the residents of Brevard County, Florida,

NOW THEREFORE, in consideration of the mutual terms and conditions, promises, covenants, and payments hereinafter set forth, the COUNTY and CONSULTANT hereby agree as follows:

### SECTION I. - BACKGROUND AND INTENT

The County has identified the need to extend certain wastewater facilities to serve existing residents currently utilizing septic tank and drainfield systems located along Milford Point

Drive and the Indian River Lagoon, from State Road 520 northward approximately 4,200 LF to the cul-de-sac at the north end of Milford Point Drive. The project will serve approximately 60 existing residents currently on septic systems. The project will include a forcemain extension with lift stations as required. The intent of this task order is for the Consultant to evaluate the existing conditions, recommend to the County certain improvements to be made for extension of sewer facilities, coordinate the design of those improvements with the County, prepare construction plans and bid documents and complete required permitting for the improvements.

The expectation of the County is, and it is acknowledged by the Consultant, that the Consultant will coordinate with the County staff prior to submitting this task order to become familiar with the project requirements in a general way, view the site, and determine the scope of available documentation and resources.

## **SECTION II. - PROJECT REPRESENTATIVES**

For Brevard County Utility Services:

Mark W. Reagan, JD, PE  
321-633-2089  
[Mark.Reagan@brevardcounty.us](mailto:Mark.Reagan@brevardcounty.us)

For Consultant:

Joseph W. Mayer, P.E.,  
Bussen-Mayer Engineering Group, Inc.  
[joe@bmeg.net](mailto:joe@bmeg.net)

## **SECTION III. - SCOPE OF WORK**

The Consultant will provide engineering and permitting services as follows:

Task 1 – Preliminary Engineering

- a) Collect and review available data from the County.
- b) Perform boundary and topographic surveys of the proposed utility extension route– surface and sub-surface. The horizontal and vertical locations of known critical underground features shall be verified by excavation and exposure (“soft-digs”).
- c) Develop a preliminary opinion of whether to anticipate environmental impacts.
- d) Prepare conceptual layouts and site plans for County review.
- e) Perform a Geotechnical Evaluation of the site.
- f) Attend a preliminary design review meeting after Tasks 1a) through 1d) are completed.

Task 2 -- Final Design

- a) Prepare sketch and legal descriptions for easement/lift station parcel acquisition, as required.
- b) Prepare civil, structural, and mechanical, drawings and specifications consistent with County standard criteria.
- c) Prepare 60% design documents including site plan and opinion of probable cost.
- d) Attend a 60% design review meeting with the County.
- e) Prepare 90% design documents, including technical specifications, incorporating comments from the 60% design review.
- f) Prepare permit applications and exhibits for the County to submit to regulatory agencies. Prepare responses to Requests for Additional Information (RAI). One RAI is anticipated for each application.
- g) Submit final design drawings and specifications incorporating comments from

the 90% design review and permitting agency comments.

h) Submit an engineer's opinion of probable cost with the final design submittal.

#### **SECTION IV. - COORDINATION**

The Consultant will coordinate the design with the County Staff members listed below as appropriate.

<b>Function</b>	<b>Name</b>	<b>Email</b>	<b>Phone</b>
Safety	Mike Malavolta	<a href="mailto:Mike.Malavolta@brevardcounty.us">Mike.Malavolta@brevardcounty.us</a>	321-633-2093
Operations Mgr.	Brian Sorensen	<a href="mailto:Brian.Sorensen@brevardcounty.us">Brian.Sorensen@brevardcounty.us</a>	321-633-2093
Area Operations	Lou Braafladt	<a href="mailto:Louis.Braafladt@brevardcounty.us">Louis.Braafladt@brevardcounty.us</a>	321-455-1338
SCADA	Steve Allen	<a href="mailto:Steve.Allen@brevardcounty.us">Steve.Allen@brevardcounty.us</a>	321-255-4331
Construction	Craig Helpling	<a href="mailto:Craig.Helpling@brevardcounty.us">Craig.Helpling@brevardcounty.us</a>	321-633-2089
Engineering	Don Kean	<a href="mailto:don.kean@brevardcounty.us">don.kean@brevardcounty.us</a>	321-633-2089

#### **SECTION V. - COUNTY'S RESPONSIBILITY**

The following shall be provided by the County in order to assist in the completion of the Consultant's tasks:

- a) Reasonable access to the site.
- b) Reasonable access to operations, maintenance, and engineering staff.
- c) AutoCAD drawings of County design standards.
- d) MS Word files of County standard technical specifications.
- e) Copies of available record drawings.
- f) Copies of available design and construction documents.
- g) Copies of available operating reports and maintenance records.

- h) Lift station control panel design and specifications.
- i) MS Word template for Division 0 and 1 specifications.
- j) Advertisement and distribution of bid packages.
- k) Submittal of permit applications prepared by the Consultant.
- l) Payment of permit fees.
- m) Coordination with other County offices and federal and state regulatory agencies.

#### **SECTION VI. - CONSULTANT SERVICES SPECIFICALLY NOT INCLUDED**

- a) Environmental services related to unknown threatened and endangered species, wetlands, or regulated solid wastes encountered on the site.
- b) Services related to acquisition of real property, easements, or rights-of way (to be provided by County Land Acquisition Department).
- c) Bidding Phase services.
- d) Construction Phase services.

#### **SECTION VII. - DELIVERABLES**

The following results shall be delivered by the Consultant:

All deliverables shall be provided only in electronic PDF format unless otherwise noted.

Generally -

- a) Monthly activity reports.
- b) Meeting minutes from meetings and conferences with County staff and regulatory agencies.
- c) Timely invoices concurrent with the work.

Task 1 -- Preliminary Design

- a) Right-of-Way and Topographic survey with geographic positions or State Plane Coordinates and a permanent benchmark on NAVD88 datum.
- b) Preliminary site plans and proposed layouts.

Task 2 -- Final Design

- a) Sketch and legal descriptions for Lift Station parcel acquisition and any required temporary construction easements.
- b) Sixty percent design drawings.
- c) Lift station calculations.
- d) Results of geotechnical survey.
- e) Permit applications as applicable (County R/W, FDOT R/W, FDEP, EPA, SJRWMD, other). Provide in PDF and hard copies as required.
- f) Ninety percent design drawings and technical specifications.
- g) Final design drawings in PDF and AutoCAD format with X-refs and plot styles and technical specifications in PDF format.
- h) Engineer's opinion of probable cost at 60% and final design.

**SECTION VIII. - SCHEDULE**

Milestone	Calendar Days	Sum of Days
Preliminary design (Mobilization, data	120	120
County review of preliminary design	14	134
60% design	90	224
County review of 60% design	14	238
90% design	60	298
County review of 90% design	14	312

Final design (100% plans and specifications)	60	372
County review of final documents	14	386
Engineering completed	14	400

NOTE: The County may suspend the Consultant's schedule for real estate acquisition, environmental remediation, coordination with other projects, or unforeseen circumstances causing delay.

**SECTION IX. - BASIS OF COMPENSATION**

The fee for the scope of work described in Section C, above, shall not exceed a total of \$200,000.00 and shall not exceed the amounts shown in the table below for each specific task.

The County shall periodically compensate the Consultant a portion of the task fee based on mutually agreed upon percentages of completion of each task.

Task	Description	Fee
1	Preliminary Design	\$80,000.00
2	Final Design	\$120,000.00
--	Total	\$200,000.00

**SECTION X. - PAYMENT, PARTIAL PAYMENTS AND RESOLUTION OF DISPUTES**

All payment requests shall follow the requirements as established within Sections 218.70 through 218.79 - Florida Statutes 'Local Government Prompt Payment Act', and Brevard County Administrative Order AO-33 "Prompt Payment of Invoices".

The COUNTY shall make payments to the CONSULTANT for all milestones completed and deliverables submitted under the authorized work, and to the satisfaction of the COUNTY, to the date of the statement.

- A. The CONSULTANT shall submit signed invoices to the COUNTY's project manager.
- B. The amount of each invoice submitted shall be the amount due for all eligible services performed to date in connection with authorized work, as certified by the CONSULTANT. Each invoice shall include any authorized work performed during the invoice date of service, must reference the particular Task name, and must include the invoice date, invoice number, and a list of the itemized charges.
- C. The CONSULTANT's invoice shall be submitted along with the progress report for that billing period.
- D. COUNTY's Project Manager shall review the statement and notify the CONSULTANT in writing within ten (10) days from receipt of the invoice if any amounts requested are disputed or lack adequate support or documentation. COUNTY shall indicate in writing what corrective action is needed and the time by which a corrected invoice should be received by the COUNTY.
- E. In the event a dispute occurs between the CONSULTANT and the COUNTY concerning payment request or an invoice, such disagreement shall be resolved by a Dispute Committee consisting of representatives of the County Manager's Office, Purchasing and the County Attorney.
- F. Proceedings to resolve any disputed invoice shall commence no later than forty-five (45) days after the date on which a payment request or proper invoice was received by the COUNTY and shall follow requirements of Florida Statutes 218.70 through 218.79 Final decision by the COUNTY

shall be concluded no later than sixty (60) days after the date on which the payment request or proper invoice was received by the COUNTY.

- G. If the dispute is resolved in favor of the COUNTY, then interest charges shall begin to accrue fifteen (15) days after the COUNTY'S final decision. If the dispute is resolved in favor of the CONSULTANT, the interest shall begin to accrue as of the original date the payment became due.
- I. No later than thirty (30) days from acceptance by Project Manager of all the work or services covered by the submitted invoice, the COUNTY shall pay the CONSULTANT the amount due for any undisputed work.
- J. The COUNTY is a tax exempt entity and shall not be charged or invoiced for the payment of taxes for work performed under this CONTRACT.
- K. Payment of the Final Invoice shall not constitute evidence of COUNTY'S acceptance of work.
- L. Final invoice shall be clearly marked as such in bold letters. The Final invoice shall include a report of all the payments made to the CONSULTANT and each Sub-contractor under the Task Order up to date and the amount for the final invoice.
- M. Where termination of the CONTRACT is a termination for convenience and not for cause any reasonable and unavoidable costs incurred due to such termination (such as cancelling orders for equipment, materials or services) such payment shall be borne by the COUNTY.

#### **SECTION XI. - INDEMNIFICATION & INSURANCE**

The CONSULTANT agrees to indemnify and hold the COUNTY harmless against

liability for bodily injury, sickness, disease, death or personal injury or damage to property or loss of use and reasonable attorney fees resulting there from, to the extent caused by negligent acts, errors or omissions of the CONSULTANT or other persons employed or utilized by the CONSULTANT in the performance of this CONTRACT. To the extent allowable by law, the CONSULTANT agrees to indemnify and pay on behalf of the COUNTY the reasonable cost of the COUNTY'S legal defense as may be selected by the COUNTY, for the defense of all claims described in the hold harmless clause, herein. It is agreed by the parties hereto that specific consideration has been paid under this CONTRACT for this hold harmless provision. Such payment on behalf of the COUNTY shall be in addition to any and all other legal remedies available to the COUNTY and shall not be considered to be the COUNTY'S exclusive remedy.

The CONSULTANT shall provide the following described insurance policies with insurers acceptable to the COUNTY. The insurance coverage and limits required must be evidenced by properly executed Certificates of Insurance submitted to the COUNTY prior to award of this CONTRACT. These policies of insurance shall cover the CONSULTANT for claims, demands, and expenses, including defense and causes for action for general damages, bodily injury and property damage arising out of or to the extent caused by negligent acts, errors or omissions of the CONSULTANT. Said policies shall provide limits in the amount not less than \$1,000,000.00 per occurrence, with the exception of Professional Liability which shall provide limits of \$1,000,000.00 per claim, to cover claims arising in connection with any particular accident or occurrence.

The CONSULTANT shall also provide and maintain Workers' Compensation insurance (for statutory limits) as required by Florida Statutes, Chapter 440. All policies shall be endorsed to provide COUNTY thirty (30) days prior written notice of any changes or cancellations of said policies. Certificate of Insurance will be provided and maintained with the COUNTY

throughout the term of this CONTRACT. These insurance requirements shall not relieve or limit the liability of the CONSULTANT. The COUNTY does not in any way represent that these types or amounts of insurance are sufficient or adequate to protect the CONSULTANT'S interests or liabilities, but are merely minimums.

#### SECTION XII. - ATTORNEY'S FEES

In the event any action is taken to enforce the terms of this CONTRACT or any Task Orders under this CONTRACT, each party shall bear its own attorney's fees and costs, and any trial shall be non-jury.

#### SECTION XIII. - CONTINGENT FEES

The CONSULTANT warrants that they have not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT to solicit or secure this CONTRACT and that they have not paid or agreed to pay any person, company, individual or firm, other than a bona fide employee working solely for the CONSULTANT any fee, commission, percentage, brokerage or contingent fee, gift or any other consideration, contingent upon, or resulting from award or making of this CONTRACT. For any breach or violation of this provision, the COUNTY shall have the right to terminate this CONTRACT, without liability, and, at its discretion, to deduct from the CONTRACT price or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration and any damages and shall be responsible for reporting the details of such breach or violation to the proper legal authorities where and when appropriate.

#### **SECTION XIV. - DEFAULT**

In the event the CONSULTANT fails to comply with the provisions of this CONTRACT, the COUNTY may declare the CONSULTANT in default by written notification. Upon receipt of notification, CONSULTANT will be provided ten (10) days in which to cure. In the event that the CONSULTANT is unable to cure and partial payment has been made for professional services not completed or defectively performed, the CONSULTANT shall return any sums due to the COUNTY as a result of CONSULTANT'S default within ten (10) days after notice and demand that said sums are due. The CONSULTANT shall not be compensated on a percentage of any deficient professional services which have been performed at the time the COUNTY declares a default. The COUNTY shall pay for that portion, if any, of the performed work which is used or useful by any other consultant retained by the COUNTY to finish the work to the extent that the COUNTY does not incur additional costs.

#### **SECTION XV. - RIGHT OF APPEAL**

All services shall be performed by the CONSULTANT to current reasonable professional standards and practices and to the reasonable requirements of the COUNTY. The COUNTY shall decide and dispose of all claims, questions and disputes arising under this CONTRACT. Such determination shall be final, conclusive and binding upon the parties hereto unless such determination is clearly arbitrary or unreasonable. In the event the CONSULTANT does not concur with the decisions of the COUNTY, within ten (10) days after determination by the COUNTY, the CONSULTANT shall present any such objections in writing to the COUNTY and, upon request, any adverse determination shall be referred to an appeal board comprised of a representative of the Purchasing Department, County Manager's Office and another COUNTY representative designated by the County Manager for review and disposition at a

hearing to be held within ten (10) days after receipt of the appeal. This paragraph does not constitute a waiver of either party's right to proceed in a court of competent jurisdiction, provided that prior to filing any suit the CONSULTANT goes through the appeal process established in this CONTRACT and provided further that the CONSULTANT strictly abides by the ten-day time deadline set forth in this paragraph.

#### **SECTION XVI. - SUCCESSORS AND ASSIGNS**

The COUNTY and CONSULTANT each binds itself and its partners, successors, executors, administrators and assigns to the other party of this CONTRACT and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this CONTRACT.

Neither the COUNTY nor the CONSULTANT shall assign, sublet or transfer any rights under or interest in (including, but without limitation, monies that may become due or monies that are due) this CONTRACT without the prior written consent of the other, except to the extent that any assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this CONTRACT. Nothing contained in this CONTRACT shall be construed as giving any rights or benefits to any person, party, or entity other than the COUNTY and the CONSULTANT, and all duties and responsibilities undertaken pursuant to this CONTRACT will be the sole and exclusive benefit of the COUNTY and the CONSULTANT, and not for the benefit of any other party.

#### **SECTION XVII. - TERMINATION/MODIFICATION OF CONTRACT**

A. In the event the CONSULTANT disregards the authority of the COUNTY or violates the provisions of this CONTRACT, or otherwise fails to comply with any provisions of this CONTRACT or if the progress or quality of the work is unsatisfactory, Director or designee may serve written notice to CONSULTANT and if CONSULTANT fails within a period of ten (10) calendar days to correct such failure, COUNTY may terminate this CONTRACT upon thirty (30) days written notice to CONSULTANT. Upon termination CONSULTANT shall immediately cease performance of this CONTRACT and shall deliver to COUNTY all completed or partially completed work including but not limited to all original papers, records, drawings, models, and other materials set forth and described in this CONTRACT, within thirty (30) calendar days of the termination date established in the written Notice.

The CONSULTANT may terminate this CONTRACT for any reason upon thirty (30) days written notice, provided that any outstanding approved Task Order is completed by the CONSULTANT.

B. In the event of termination by the COUNTY, the COUNTY'S sole obligation to the CONSULTANT shall be payment for those portions of satisfactorily and completely performed work previously authorized and shall be determined on the basis of the work performed by the CONSULTANT, or the percentage of work complete as estimated by the CONSULTANT and agreed upon by the COUNTY up to the time of termination. In the event of such termination, the COUNTY may, without penalty or other obligation to the CONSULTANT, elect to

employ other persons to perform the same or similar services.

- C. In the event of any form of claim, dispute, or controversy by or between the parties to this CONTRACT, the parties expressly and unequivocally agree to engage in good faith efforts to meet in person to resolve any and all such differences. Absent such informal resolution of any/all such dispute(s), the parties expressly agree to engage in pre-suit mediation in accordance with the applicable rules of procedure for such mediation as may be in force in the Judicial Circuit Courts in Brevard County.
- D. The terms of this CONTRACT may be modified upon the mutual Agreement of the CONSULTANT and the COUNTY as confirmed in writing.
- E. In the event that the CONSULTANT changes its name, merges with another company, becomes a subsidiary or makes other substantial change in structure or in the principals or project managers of the CONSULTANT, the COUNTY reserves the right to terminate this CONTRACT subject to the terms prescribed above.
- F. In the event of termination of this CONTRACT the CONSULTANT agrees to surrender any and all documents prepared by the CONSULTANT for the COUNTY in connection with this CONTRACT, of which, the COUNTY shall have full ownership thereof, CONSULTANT may retain copies of such documents for record purposes.

**SECTION XVIII. - INDEPENDENT CONTRACTOR**

The CONSULTANT shall perform the services under this CONTRACT as an

independent contractor and nothing contained herein shall be construed to be inconsistent with this relationship or status. Nothing in this CONTRACT shall be interpreted or construed to constitute the CONSULTANT or any of its agents or employees to be the agent, employees or representative of the COUNTY.

**SECTION XIX. - AUDIT RIGHTS**

The COUNTY reserves the right to audit the records of the CONSULTANT related to this CONTRACT at any time during the prosecution of the work included herein and for a period of five years after final payment is made. The CONSULTANT agrees to provide copies of any records necessary to substantiate payment requests to the COUNTY as may be requested by the COUNTY, solely at the cost of reproduction.

**SECTION XX. - UNAUTHORIZED ALIEN WORKERS**

Brevard 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. §1324 of the Immigration Nationality Act ("INA"). The COUNTY shall consider a violation of the INA as grounds for unilateral cancellation of this CONTRACT by the COUNTY.

**SECTION XXI. - EMPLOYMENT**

The CONSULTANT shall not engage the services of any person or persons now employed by the COUNTY, including any department, agency, board of commission thereof, to provide services relating to the CONTRACT without the written consent from the COUNTY.

**SECTION XXII. - PUBLIC ENTITY CRIMES**

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public crime may not perform work as a contractor, supplier, sub-contractor, or CONSULTANT under a CONTRACT with a public entity, and may not transfer business with any public entity in excess of the threshold amount provided in section 287.017 F.S. for CATEGORY TWO for a period of thirty six (36) months from the date of being placed on the convicted vendor list.

**SECTION XXIII. - PROFESSIONAL STAFF, LICENSING AND SUBCONTRACTING**

CONSULTANT was selected in part because of the involvement of certain individuals employed by the CONSULTANT and identified on the Statement of Qualifications of the CONSULTANT. The CONSULTANT agrees that the persons identified in such document shall not be removed for the project without prior written approval by the COUNTY.

CONSULTANT shall notify COUNTY in the event of key personnel changes, which might affect this CONTRACT. Notification shall be made within ten (10) days prior to the changes. Any such request shall be supported by comprehensive documents outlining the reason(s) for the proposed substitution and include the specific qualifications of the proposed substitute. COUNTY has the right to reject proposed changes in key personnel. Further, COUNTY, in lieu of approving a substitution, may initiate other actions under the CONTRACT, including termination.

CONSULTANT shall at all times during the term of this CONTRACT at its own cost and expense, maintain such licenses as are required for the performance of work referenced herein by this CONTRACT.

CONSULTANT shall maintain an adequate and competent staff of professional

engineers and/or architects licensed within the State of Florida.

The CONSULTANT shall not sub-contract, assign, or transfer any work under this CONTRACT without the prior written approval of the COUNTY. When applicable, the CONSULTANT shall cause the names of any sub-contracted firms responsible for major portions (or separate specialty) of the work to be inserted in the pertinent documents or data. Such written consent includes the approval of a Task Order issued by the COUNTY provided the fee proposal for that Task Order indicates the use of such sub-Contractor.

Approval by COUNTY of any sub-contract or of any work shall not relieve CONSULTANT of any responsibility for, or liability in connection with fulfillment of its obligations under this CONTRACT.

#### **SECTION XXIV. - OWNERSHIP OF DOCUMENTS**

All documents including but not limited to: detailed reports, tracing, disks, plans, models, programs, specifications, maps, contract documents, record documents, original field survey, data notes, and other tangible work products developed by the CONSULTANT pursuant to this CONTRACT and any assigned Task Orders shall be delivered to and shall become the property of the COUNTY without restrictions or limitations upon their use or distribution and shall be made available by the CONSULTANT at any time upon request by the COUNTY. When each individual section of work requested pursuant to this CONTRACT is complete, all of the above work products shall be delivered to the COUNTY for its use.

The CONSULTANT shall not be liable for any damages, injury or costs associated with the COUNTY use or distribution of these documents for purposes other than those originally intended by the CONSULTANT.

#### **SECTION XXV. - REUSE OF DOCUMENTS**

The CONSULTANT may not reuse data or work products developed by the CONSULTANT for the COUNTY without express written permission of the COUNTY.

Any plans which the CONSULTANT provides under this CONTRACT shall contain a statement that they are subject to reuse restrictions in accordance with the provisions of Florida Statutes 287.055.

#### **SECTION XXVI. - QUALITY CONTROL**

The CONSULTANT warrants a high level of quality control and accuracy.

The CONSULTANT shall perform all services with the standard of care and skill ordinarily performed by like professionals performing similar work.

When necessary, the COUNTY may request additional data collection or re-analysis of data at no expense to the COUNTY. If the original data collected or data analysis is found to be accurate and reasonable, the CONSULTANT shall be compensated for the additional work in accordance with Section VIII of this Agreement.

#### **SECTION XXVII. - NON EXCLUSIVE CONTRACT**

The parties acknowledge that this CONTRACT is not an exclusive CONTRACT and the COUNTY may employ other engineers, professional or technical personnel to furnish services for the COUNTY, as the COUNTY, in its sole discretion, finds is in the public interest.

The COUNTY reserves the right to assign such work to the CONSULTANT as it may approve in the sole discretion of the COUNTY.

#### **SECTION XXVIII. - TRUTH-IN-NEGOTIATIONS**

In accordance with the provisions of Chapter 287.055, Florida Statutes, the CONSULTANT agrees to execute a truth-in-negotiations certificate stating that wage rates and

other factual unit costs supporting the compensation of this CONTRACT are accurate, complete, and current at the time of contracting; and agrees the original CONTRACT price and any additions may be adjusted to exclude any significant sums by which the COUNTY determines that such CONTRACT price was increased due to inaccurate, incomplete or non-current wage rates and other factual unit costs. All such CONTRACT adjustments shall be made within one (1) year following the end of the CONTRACT.

**SECTION XXIX. - DISADVANTAGE BUSINESS ENTERPRISES/EQUAL OPPORTUNITY  
EMPLOYMENT**

The CONSULTANT shall endeavor to meet the minority business enterprise procurement goal set forth in F.S. 287.042.

During the performance of this CONTRACT the CONSULTANT will not discriminate against any employee or applicant for employment because of race, color, sex, age religion, ancestry, handicap, marital status or national origin. The CONSULTANT will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard of race, color, sex, age religion, ancestry, handicap, marital status or national origin.

**SECTION XXX. - INTEREST OF COMMISSIONERS AND OTHERS**

No officers, members or employees of the COUNTY, and no members of its governing body, and no other public official of the governing body of the locality or localities in which services for the facilities are situated or carried out, who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of this project, shall participate in any decision relating to this CONTRACT which affects their personal interest, or

have any personal or pecuniary interest, direct or indirect, in this CONTRACT or the proceeds thereof.

**SECTION XXXI. - INTEREST OF CONSULTANT**

The CONSULTANT covenants that it presently has no conflict of interest and shall not acquire any interest, direct or indirect, which shall conflict in any manner or degree with the performance of services required to be performed under this CONTRACT. The CONSULTANT further covenants that in the performance of this CONTRACT, no person having any such interest shall be employed by the CONSULTANT.

**SECTION XXXII. - ENTIRETY OF CONTRACT**

This writing, together signed Notices to Proceed that may follow, embody the entire CONTRACT and understanding between the parties hereto, and there are no other CONTRACTS or understandings, oral or written, with reference to the subject matter hereof that are not merged herein.

This CONTRACT supersedes all prior agreements, CONTRACTS, proposals, representations, negotiations, letters or other communications between the COUNTY and the CONSULTANT pertaining to services whether written or oral.

No alteration, change, or modification of the terms of this CONTRACT shall be valid unless made in writing, signed by both parties hereto as an addendum to this CONTRACT, or as specifically prescribed in a Task Order.

This CONTRACT, regardless of where executed, shall be governed by and construed according to the laws of the State of Florida.

**SECTION XXXIII. - NOTICES**

Any notices, or other written communications pertaining to the enforcement of provisions contained within this CONTRACT from the CONSULTANT to the COUNTY shall be considered delivered when posted by certified mail or delivered in person to the following address:

Brevard County Manager's Office

Attn: Frank Abbate, County Manager

2725 Judge Fran Jamieson Way, Bldg C

Viera, FL 32940

Any notices, or other written communications pertaining to the enforcement of provisions contained within this CONTRACT from the COUNTY to the CONSULTANT shall be considered delivered when posted by certified mail to the CONSULTANT at the last address left on file with the COUNTY or delivered in person to said CONSULTANT or the CONSULTANT'S authorized representative.

**SECTION XXXVI-SURVIVAL OF OBLIGATIONS**

All representations, indemnifications, warranties and guarantees made in, required by or given in accordance with this CONTRACT, as well as all continuing obligations indicated in this CONTRACT, will survive Final Payment, completion and acceptance of the Work and termination or completion of this CONTRACT.

IN WITNESS WHEREOF, the parties hereunto have caused this contract to be executed by its duly authorized representative have caused this Contract to be executed by its duly authorized representatives, effective as of the date below on which the last of the parties hereto executes this Contract.

ATTEST:



Scott Ellis, Clerk

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA

By: 

Rita Pritchett, Chair

Date: 6-7-18

as approved by the Board on \_\_\_\_\_

Reviewed for legal form and content:



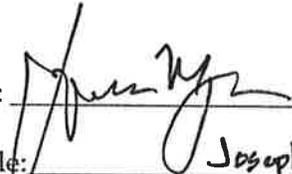
Assistant County Attorney

CONSULTANT:

ATTEST:

BUSSEN MAYER-ENGINEERING GROUP

Patricia L. Wilson

By:   
Title: Joseph W. Mayer, Pres.  
Date: 05/30/18

## TRUTH-IN-NEGOTIATION CERTIFICATE AND AFFIDAVIT

Before me, the undersigned authority, personally appeared Affiant, who being first duly sworn, deposes and says:

1. That the undersigned firm is furnishing this Truth in Negotiation Certificate pursuant to Section 287.055(5)(a) of the Florida Statutes for the undersigned firm to receive a CONTRACT for professional services with the Board of County Commissioners of Brevard County, Florida.

2. That the undersigned firm is a corporation which engages in furnishing professional engineering services and is entering into a CONTRACT with the Board of County Commissioners of Brevard County, Florida to provide professional services for a project known as the Continuing Consultant.

3. That the undersigned firm has furnished the Board of County Commissioners of Brevard County, Florida a detailed analysis of the cost of the professional services required for the project.

4. That the wage rate information and other factual unit costs which the undersigned firm furnished were accurate, complete and current at the time the undersigned firm and the Board of County Commissions entered into the CONTRACT for professional services on the project.

5. That the CONTRACT which the undersigned firm and Brevard County entered into on this job contained a provision that the original CONTRACT price and any additions thereto shall be adjusted to include any significant sums by which the Board of County Commissioners determines the CONTRACT price was increased due to inaccurate, incomplete or non-current wage rates or other factual unit costs and that all such CONTRACT adjustments shall be made within one year following the end of the CONTRACT.

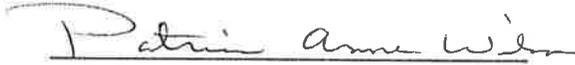
FURTHER AFFIANT SAYETH NAUGHT.

By:   
Title: Joseph W. Mayor, Pres.

The foregoing instrument was acknowledged before me by who has produced \_\_\_\_\_ as identification or is personally known to me.

WITNESS my hand and official seal in the State and County last aforesaid this 30 day of May, 2018.

(SEAL)

  
Signature

Patricia Anne Wilson

Notary Name (typed or printed)



PATRICIA A WILSON  
MY COMMISSION # GG 043175  
EXPIRES: November 5, 2020  
Bonded Thru Budget Notary Services

**PROFESSIONAL SERVICES CONTRACT**

This is a CONTRACT by and between the **Board of County Commissioners of Brevard County, Florida** a political subdivision of the State of Florida, hereinafter referred to as COUNTY and **Bussen-Mayer Engineering Group, Inc**, a business having its primary location at 100 Parnell Street, Merritt Island, FL 32953, hereinafter referred to as CONSULTANT.

WHEREAS, the COUNTY desires to engage the CONSULTANT to provide design and construction phase services for Indian River Lagoon Program Septic to Sewer Project Sykes Creek Zone T (Newfound Harbor Drive), as further described herein; and

WHEREAS, the CONSULTANT desires to provide such professional services in accordance with this Agreement, and has represented to the COUNTY that it has the competency and experience to perform such services in accordance with the terms and conditions as set forth herein; and

WHEREAS, the CONSULTANT has been selected to perform these professional services pursuant to the provisions of Section 287.055, Florida Statutes and Brevard County Policy BCC-26 (Acquisition of Consultant Professional Services); and

WHEREAS, the provisions of such services shall mutually benefit the parties hereto and the residents of Brevard County, Florida,

NOW THEREFORE, in consideration of the mutual terms and conditions, promises, covenants, and payments hereinafter set forth, the COUNTY and CONSULTANT hereby agree as follows:

**SECTION I - BACKGROUND AND INTENT**

The Brevard County Utility Services Department (BCUSD) has identified the need to protect the Indian River Lagoon through conversion of septic tanks to sanitary sewer facilities identified

within the Sykes Creek Area Zone T (NewFound Harbor Drive). Funding for this project will be provided by the Save Our Indian River Lagoon (SOIRL) Program. The proposed improvements will be to serve existing residents currently utilizing septic tank and drainfield systems located along Newfound Harbor Drive and the Indian River Lagoon, from Eastwood Drive southward approximately 6,600 LF to the cul-de-sac at the south end of Newfound Harbor Drive. The project will serve approximately 137 existing residents currently on septic systems. The project will include a forcemain extension with lift stations as required. The intent of this task order is for the Consultant to evaluate the existing conditions, recommend to the County certain improvements to be made for extension of sewer facilities, coordinate the design of those improvements with the County, prepare construction plans and bid documents and complete required permitting for the improvements.

The expectation of the County is, and it is acknowledged by the Consultant, that the Consultant will coordinate with the County staff prior to submitting this task order to become familiar with the project requirements in a general way, view the site, and determine the scope of available documentation and resources.

## SECTION II - PROJECT REPRESENTATIVES

For Brevard County Utility Services:

Mark W. Reagan, JD, PE  
321-633-2089  
[Mark.Reagan@brevardcounty.us](mailto:Mark.Reagan@brevardcounty.us)

For Consultant:

Joseph W. Mayer, P.E.,  
Bussen-Mayer Engineering Group  
[Joe@bmeg.net](mailto:Joe@bmeg.net)

## SECTION III - SCOPE OF WORK

The Consultant will provide preliminary engineering inclusive of data collection, final design, bidding, construction support services, and funding assistance and public involvement as follow:

Task 1 -- Preliminary Engineering

- a) Collect and review available data from the County.
- b) Perform boundary and topographic surveys of the proposed utility extension route – surface and sub-surface. The horizontal and vertical locations of known critical underground features shall be verified by excavation and exposure (“soft-digs”).
- c) Develop a preliminary opinion of whether to anticipate environmental impacts.
- d) Prepare conceptual layouts and site plans for County review.
- e) Perform a Geotechnical Evaluation of the site.
- f) Attend a preliminary design review meeting after Tasks 1a) through 1d) are completed.

Task 2 -- Final Design

- a) Prepare sketch and legal descriptions for easement/lift station parcel acquisition, as required.
- b) Prepare civil, structural, and mechanical, drawings and specifications consistent with County standard criteria.
- c) Prepare 60% design documents including site plan and opinion of probable cost.
- d) Attend a 60% design review meeting with the County.
- e) Prepare 90% design documents, including technical specifications, incorporating comments from the 60% design review.
- f) Prepare permit applications and exhibits for the County to submit to regulatory agencies. Prepare responses to Requests for Additional Information (RAI). One RAI is anticipated for each application.
- g) Submit final design drawings and specifications incorporating comments from the 90% design review and permitting agency comments.
- h) Submit an engineer’s opinion of probable cost with the final design submittal.

SECTION IV - COORDINATION

The Consultant will coordinate the design with the County Staff members listed below as appropriate.

Function	Name	Email	Phone
Safety	Mike Malavolta	<a href="mailto:Mike.Malavolta@brevardcounty.u">Mike.Malavolta@brevardcounty.u</a>	321-633-2093
Operations Mgr.	Brian Sorensen	<a href="mailto:Brian.Sorensen@brevardcounty.u">Brian.Sorensen@brevardcounty.u</a>	321-633-2093
Area Operations	Lou Braafladt	<a href="mailto:Louis.Braafladt@brevardcounty.u">Louis.Braafladt@brevardcounty.u</a>	321-455-1338
SCADA	Steve Allen	<a href="mailto:Steve.Allen@brevardcounty.us">Steve.Allen@brevardcounty.us</a>	321-255-4331
Construction	Craig Helpling	<a href="mailto:Craig.Helpling@brevardcounty.u">Craig.Helpling@brevardcounty.u</a>	321-633-2089
Engineering	Don Kean	<a href="mailto:don.kean@brevardcounty.us">don.kean@brevardcounty.us</a>	321-633-2089

#### **SECTION V - COUNTY'S RESPONSIBILITY**

The following shall be provided by the County in order to assist in the completion of the Consultant's tasks:

- a) Reasonable access to the site.
- b) Reasonable access to operations, maintenance, and engineering staff.
- c) AutoCAD drawings of County design standards.
- d) MS Word files of County standard technical specifications.
- e) Copies of available record drawings.
- f) Copies of available design and construction documents.
- g) Copies of available operating reports and maintenance records.
- h) Lift station control panel design and specifications.
- i) MS Word template for Division 0 and 1 specifications.
- j) Advertisement and distribution of bid packages.
- k) Submittal of permit applications prepared by the Consultant.
- l) Payment of permit fees.
- m) Coordination with other County offices and federal and state regulatory agencies.

#### **SECTION VI - CONSULTANT SERVICES SPECIFICALLY NOT INCLUDED**

- a) Environmental services related to unknown threatened and endangered species, wetlands, or regulated solid wastes encountered on the site.
- b) Services related to acquisition of real property, easements, or rights-of way (to be provided by County Land Acquisition Department).
- c) Bidding Phase Services.
- d) Construction Phase Services.

#### **SECTION VII - DELIVERABLES**

The following results shall be delivered by the Consultant:

All deliverables shall be provided only in electronic PDF format unless otherwise noted.

Generally -

- a) Monthly activity reports.
- b) Meeting minutes from meetings and conferences with County staff and regulatory agencies.
- c) Timely invoices concurrent with the work.

Task 1 -- Preliminary Design

- a) Right-of-Way and Topographic survey with geographic positions or State Plane Coordinates and a permanent benchmark on NAVD88 datum.
- b) Preliminary site plans and proposed layouts.

Task 2 -- Final Design

- a) Sketch and legal descriptions for Lift Station parcel acquisition and any required temporary construction easements.
- b) Sixty percent design drawings.
- c) Lift station calculations.
- d) Results of geotechnical survey.
- e) Permit applications as applicable (County R/W, FDOT R/W, FDEP, EPA, SJRWMD, other). Provide in PDF and hard copies as required.
- f) Ninety percent design drawings and technical specifications.
- g) Final design drawings in PDF and AutoCAD format with X-refs and plot styles and technical specifications in PDF format.
- h) Engineer's opinion of probable cost at 60% and final design.

**SECTION VIII - SCHEDULE**

Milestone	Calendar Days to Complete	Sum of Days from NTP
Preliminary design (Mobilization, data collection, site plan, survey)	120	120
County review of preliminary design	14	134
60% design	90	224
County review of 60% design	14	238
90% design (Including permit applications)	60	298
County review of 90% design	14	312
Final design (100% plans and specifications including Divisions 0 and 1)	60	372
County review of final documents	14	386
Engineering completed	14	400

NOTE: The County may suspend the Consultant's schedule for real estate acquisition, environmental remediation, coordination with other projects, or unforeseen circumstances causing delay.

**SECTION IX -BASIS OF COMPENSATION**

The fee for the scope of work described in Section C, above, shall not exceed a total of \$300,000.00 and shall not exceed the amounts shown in the table below for each specific task. The County shall periodically compensate the Consultant a portion of the task fee based on mutually agreed upon percentages of completion of each task.

<b>Task</b>	<b>Description</b>	<b>Fee</b>
1	Preliminary Design	\$130,000.00
2	Final Design	\$170,000.00
--	Total	\$300,000.00

**SECTION X - PAYMENT, PARTIAL PAYMENTS AND RESOLUTION OF DISPUTES**

All payment requests shall follow the requirements as established within Sections 218.70 through 218.79 - Florida Statutes 'Local Government Prompt Payment Act', and Brevard County Administrative Order AO-33 "Prompt Payment of Invoices".

The COUNTY shall make payments to the CONSULTANT for all milestones completed and deliverables submitted under the authorized work, and to the satisfaction of the COUNTY, to the date of the statement.

- A. The CONSULTANT shall submit signed invoices to the COUNTY's project manager.
- B. The amount of each invoice submitted shall be the amount due for all

eligible services performed to date in connection with authorized work, as certified by the CONSULTANT. Each invoice shall include any authorized work performed during the invoice date of service, must reference the particular Task name, and must include the invoice date, invoice number, and a list of the itemized charges.

- C. The CONSULTANT's invoice shall be submitted along with the progress report for that billing period.
- D. COUNTY's Project Manager shall review the statement and notify the CONSULTANT in writing within ten (10) days from receipt of the invoice if any amounts requested are disputed or lack adequate support or documentation. COUNTY shall indicate in writing what corrective action is needed and the time by which a corrected invoice should be received by the COUNTY.
- E. In the event a dispute occurs between the CONSULTANT and the COUNTY concerning payment request or an invoice, such disagreement shall be resolved by a Dispute Committee consisting of representatives of the County Manager's Office, Purchasing and the County Attorney.
- F. Proceedings to resolve any disputed invoice shall commence no later than forty-five (45) days after the date on which a payment request or proper invoice was received by the COUNTY and shall follow requirements of Florida Statutes 218.70 through 218.79 Final decision by the COUNTY shall be concluded no later than sixty (60) days after the date on which the payment request or proper invoice was received by the COUNTY.

- G. If the dispute is resolved in favor of the COUNTY, then interest charges shall begin to accrue fifteen (15) days after the COUNTY'S final decision. If the dispute is resolved in favor of the CONSULTANT, the interest shall begin to accrue as of the original date the payment became due.
- I. No later than thirty (30) days from acceptance by Project Manager of all the work or services covered by the submitted invoice, the COUNTY shall pay the CONSULTANT the amount due for any undisputed work.
- J. The COUNTY is a tax exempt entity and shall not be charged or invoiced for the payment of taxes for work performed under this CONTRACT.
- K. Payment of the Final Invoice shall not constitute evidence of COUNTY'S acceptance of work.
- L. Final invoice shall be clearly marked as such in bold letters. The Final invoice shall include a report of all the payments made to the CONSULTANT and each Sub-contractor under the Task Order up to date and the amount for the final invoice.
- M. Where termination of the CONTRACT is a termination for convenience and not for cause any reasonable and unavoidable costs incurred due to such termination (such as cancelling orders for equipment, materials or services) such payment shall be borne by the COUNTY.

#### **SECTION XI - INDEMNIFICATION & INSURANCE**

The CONSULTANT agrees to indemnify and hold the COUNTY harmless against liability for bodily injury, sickness, disease, death or personal injury or damage to property or loss of use and reasonable attorney fees resulting there from, to the extent caused by negligent

acts, errors or omissions of the CONSULTANT or other persons employed or utilized by the CONSULTANT in the performance of this CONTRACT. To the extent allowable by law, the CONSULTANT agrees to indemnify and pay on behalf of the COUNTY the reasonable cost of the COUNTY'S legal defense as may be selected by the COUNTY, for the defense of all claims described in the hold harmless clause, herein. It is agreed by the parties hereto that specific consideration has been paid under this CONTRACT for this hold harmless provision. Such payment on behalf of the COUNTY shall be in addition to any and all other legal remedies available to the COUNTY and shall not be considered to be the COUNTY'S exclusive remedy.

The CONSULTANT shall provide the following described insurance policies with insurers acceptable to the COUNTY. The insurance coverage and limits required must be evidenced by properly executed Certificates of Insurance submitted to the COUNTY prior to award of this CONTRACT. These policies of insurance shall cover the CONSULTANT for claims, demands, and expenses, including defense and causes for action for general damages, bodily injury and property damage arising out of or to the extent caused by negligent acts, errors or omissions of the CONSULTANT. Said policies shall provide limits in the amount not less than \$1,000,000.00 per occurrence, with the exception of Professional Liability which shall provide limits of \$1,000,000.00 per claim, to cover claims arising in connection with any particular accident or occurrence.

The CONSULTANT shall also provide and maintain Workers' Compensation insurance (for statutory limits) as required by Florida Statutes, Chapter 440. All policies shall be endorsed to provide COUNTY thirty (30) days prior written notice of any changes or cancellations of said policies. Certificate of Insurance will be provided and maintained with the COUNTY throughout the term of this CONTRACT. These insurance requirements shall not relieve or limit the liability of the CONSULTANT. The COUNTY does not in any way represent that

these types or amounts of insurance are sufficient or adequate to protect the CONSULTANT'S interests or liabilities, but are merely minimums.

#### **SECTION XII - ATTORNEY'S FEES**

In the event any action is taken to enforce the terms of this CONTRACT or any Task Orders under this CONTRACT, each party shall bear its own attorney's fees and costs, and any trial shall be non-jury.

#### **SECTION XIII - CONTINGENT FEES**

The CONSULTANT warrants that they have not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT to solicit or secure this CONTRACT and that they have not paid or agreed to pay any person, company, individual or firm, other than a bona fide employee working solely for the CONSULTANT any fee, commission, percentage, brokerage or contingent fee, gift or any other consideration, contingent upon, or resulting from award or making of this CONTRACT. For any breach or violation of this provision, the COUNTY shall have the right to terminate this CONTRACT, without liability, and, at its discretion, to deduct from the CONTRACT price or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration and any damages and shall be responsible for reporting the details of such breach or violation to the proper legal authorities where and when appropriate.

#### **SECTION XIV - DEFAULT**

In the event the CONSULTANT fails to comply with the provisions of this CONTRACT, the COUNTY may declare the CONSULTANT in default by written notification. Upon receipt

of notification, CONSULTANT will be provided ten (10) days in which to cure. In the event that the CONSULTANT is unable to cure and partial payment has been made for professional services not completed or defectively performed, the CONSULTANT shall return any sums due to the COUNTY as a result of CONSULTANT'S default within ten (10) days after notice and demand that said sums are due. The CONSULTANT shall not be compensated on a percentage of any deficient professional services which have been performed at the time the COUNTY declares a default. The COUNTY shall pay for that portion, if any, of the performed work which is used or useful by any other consultant retained by the COUNTY to finish the work to the extent that the COUNTY does not incur additional costs.

#### SECTION XV - RIGHT OF APPEAL

All services shall be performed by the CONSULTANT to current reasonable professional standards and practices and to the reasonable requirements of the COUNTY. The COUNTY shall decide and dispose of all claims, questions and disputes arising under this CONTRACT. Such determination shall be final, conclusive and binding upon the parties hereto unless such determination is clearly arbitrary or unreasonable. In the event the CONSULTANT does not concur with the decisions of the COUNTY, within ten (10) days after determination by the COUNTY, the CONSULTANT shall present any such objections in writing to the COUNTY and, upon request, any adverse determination shall be referred to an appeal board comprised of a representative of the Purchasing Department, County Manager's Office and another COUNTY representative designated by the County Manager for review and disposition at a hearing to be held within ten (10) days after receipt of the appeal. This paragraph does not constitute a waiver of either party's right to proceed in a court of competent jurisdiction, provided that prior to filing any suit the CONSULTANT goes through the appeal process

established in this CONTRACT and provided further that the CONSULTANT strictly abides by the ten-day time deadline set forth in this paragraph.

#### SECTION XVI - SUCCESSORS AND ASSIGNS

The COUNTY and CONSULTANT each binds itself and its partners, successors, executors, administrators and assigns to the other party of this CONTRACT and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this CONTRACT.

Neither the COUNTY nor the CONSULTANT shall assign, sublet or transfer any rights under or interest in (including, but without limitation, monies that may become due or monies that are due) this CONTRACT without the prior written consent of the other, except to the extent that any assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this CONTRACT. Nothing contained in this CONTRACT shall be construed as giving any rights or benefits to any person, party, or entity other than the COUNTY and the CONSULTANT, and all duties and responsibilities undertaken pursuant to this CONTRACT will be the sole and exclusive benefit of the COUNTY and the CONSULTANT, and not for the benefit of any other party.

#### SECTION XVII - TERMINATION/MODIFICATION OF CONTRACT

- A. In the event the CONSULTANT disregards the authority of the COUNTY or violates the provisions of this CONTRACT, or otherwise fails to comply with any provisions of this CONTRACT or if the progress or

quality of the work is unsatisfactory, Director or designee may serve written notice to CONSULTANT and if CONSULTANT fails within a period of ten (10) calendar days to correct such failure, COUNTY may terminate this CONTRACT upon thirty (30) days written notice to CONSULTANT. Upon termination CONSULTANT shall immediately cease performance of this CONTRACT and shall deliver to COUNTY all completed or partially completed work including but not limited to all original papers, records, drawings, models, and other materials set forth and described in this CONTRACT, within thirty (30) calendar days of the termination date established in the written Notice.

The CONSULTANT may terminate this CONTRACT for any reason upon thirty (30) days written notice, provided that any outstanding approved Task Order is completed by the CONSULTANT.

- B. In the event of termination by the COUNTY, the COUNTY'S sole obligation to the CONSULTANT shall be payment for those portions of satisfactorily and completely performed work previously authorized and shall be determined on the basis of the work performed by the CONSULTANT, or the percentage of work complete as estimated by the CONSULTANT and agreed upon by the COUNTY up to the time of termination. In the event of such termination, the COUNTY may, without penalty or other obligation to the CONSULTANT, elect to employ other persons to perform the same or similar services.
- C. In the event of any form of claim, dispute, or controversy by or between the parties to this CONTRACT, the parties expressly and unequivocally

agree to engage in good faith efforts to meet in person to resolve any and all such differences. Absent such informal resolution of any/all such dispute(s), the parties expressly agree to engage in pre-suit mediation in accordance with the applicable rules of procedure for such mediation as may be in force in the Judicial Circuit Courts in Brevard County.

- D. The terms of this CONTRACT may be modified upon the mutual Agreement of the CONSULTANT and the COUNTY as confirmed in writing.
- E. In the event that the CONSULTANT changes its name, merges with another company, becomes a subsidiary or makes other substantial change in structure or in the principals or project managers of the CONSULTANT, the COUNTY reserves the right to terminate this CONTRACT subject to the terms prescribed above.
- F. In the event of termination of this CONTRACT the CONSULTANT agrees to surrender any and all documents prepared by the CONSULTANT for the COUNTY in connection with this CONTRACT, of which, the COUNTY shall have full ownership thereof, CONSULTANT may retain copies of such documents for record purposes.

#### **SECTION XVIII - INDEPENDENT CONTRACTOR**

The CONSULTANT shall perform the services under this CONTRACT as an independent contractor and nothing contained herein shall be construed to be inconsistent with this relationship or status. Nothing in this CONTRACT shall be interpreted or construed to constitute the CONSULTANT or any of its agents or employees to be the agent, employees or

representative of the COUNTY.

**SECTION XIX - AUDIT RIGHTS**

The COUNTY reserves the right to audit the records of the CONSULTANT related to this CONTRACT at any time during the prosecution of the work included herein and for a period of five years after final payment is made. The CONSULTANT agrees to provide copies of any records necessary to substantiate payment requests to the COUNTY as may be requested by the COUNTY, solely at the cost of reproduction.

**SECTION XX - UNAUTHORIZED ALIEN WORKERS**

Brevard 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. §1324 of the Immigration Nationality Act ("INA"). The COUNTY shall consider a violation of the INA as grounds for unilateral cancellation of this CONTRACT by the COUNTY.

**SECTION XXI - EMPLOYMENT**

The CONSULTANT shall not engage the services of any person or persons now employed by the COUNTY, including any department, agency, board of commission thereof, to provide services relating to the CONTRACT without the written consent from the COUNTY.

**SECTION XXII - PUBLIC ENTITY CRIMES**

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public crime may not perform work as a contractor, supplier, sub-contractor, or

CONSULTANT under a CONTRACT with a public entity, and may not transfer business with any public entity in excess of the threshold amount provided in section 287.017 F.S. for CATEGORY TWO for a period of thirty six (36) months from the date of being placed on the convicted vendor list.

**SECTION XXIII - PROFESSIONAL STAFF, LICENSING AND SUBCONTRACTING**

CONSULTANT was selected in part because of the involvement of certain individuals employed by the CONSULTANT and identified on the Statement of Qualifications of the CONSULTANT. The CONSULTANT agrees that the persons identified in such document shall not be removed for the project without prior written approval by the COUNTY.

CONSULTANT shall notify COUNTY in the event of key personnel changes, which might affect this CONTRACT. Notification shall be made within ten (10) days prior to the changes. Any such request shall be supported by comprehensive documents outlining the reason(s) for the proposed substitution and include the specific qualifications of the proposed substitute. COUNTY has the right to reject proposed changes in key personnel. Further, COUNTY, in lieu of approving a substitution, may initiate other actions under the CONTRACT, including termination.

CONSULTANT shall at all times during the term of this CONTRACT at its own cost and expense, maintain such licenses as are required for the performance of work referenced herein by this CONTRACT.

CONSULTANT shall maintain an adequate and competent staff of professional engineers and/or architects licensed within the State of Florida.

The CONSULTANT shall not sub-contract, assign, or transfer any work under this CONTRACT without the prior written approval of the COUNTY. When applicable, the

CONSULTANT shall cause the names of any sub-contracted firms responsible for major portions (or separate specialty) of the work to be inserted in the pertinent documents or data. Such written consent includes the approval of a Task Order issued by the COUNTY provided the fee proposal for that Task Order indicates the use of such sub-Contractor.

Approval by COUNTY of any sub-contract or of any work shall not relieve CONSULTANT of any responsibility for, or liability in connection with fulfillment of its obligations under this CONTRACT.

#### **SECTION XXIV - OWNERSHIP OF DOCUMENTS**

All documents including but not limited to: detailed reports, tracing, disks, plans, models, programs, specifications, maps, contract documents, record documents, original field survey, data notes, and other tangible work products developed by the CONSULTANT pursuant to this CONTRACT and any assigned Task Orders shall be delivered to and shall become the property of the COUNTY without restrictions or limitations upon their use or distribution and shall be made available by the CONSULTANT at any time upon request by the COUNTY. When each individual section of work requested pursuant to this CONTRACT is complete, all of the above work products shall be delivered to the COUNTY for its use.

The CONSULTANT shall not be liable for any damages, injury or costs associated with the COUNTY use or distribution of these documents for purposes other than those originally intended by the CONSULTANT.

#### **SECTION XXV - REUSE OF DOCUMENTS**

The CONSULTANT may not reuse data or work products developed by the CONSULTANT for the COUNTY without express written permission of the COUNTY.

Any plans which the CONSULTANT provides under this CONTRACT shall contain a statement that they are subject to reuse restrictions in accordance with the provisions of Florida Statutes 287.055.

#### **SECTION XXVI - QUALITY CONTROL**

The CONSULTANT warrants a high level of quality control and accuracy.

The CONSULTANT shall perform all services with the standard of care and skill ordinarily performed by like professionals performing similar work.

When necessary, the COUNTY may request additional data collection or re-analysis of data at no expense to the COUNTY. If the original data collected or data analysis is found to be accurate and reasonable, the CONSULTANT shall be compensated for the additional work in accordance with Section VIII of this Agreement.

#### **SECTION XXVII - NON EXCLUSIVE CONTRACT**

The parties acknowledge that this CONTRACT is not an exclusive CONTRACT and the COUNTY may employ other engineers, professional or technical personnel to furnish services for the COUNTY, as the COUNTY, in its sole discretion, finds is in the public interest.

The COUNTY reserves the right to assign such work to the CONSULTANT as it may approve in the sole discretion of the COUNTY.

#### **SECTION XXVIII - TRUTH-IN-NEGOTIATIONS**

In accordance with the provisions of Chapter 287.055, Florida Statutes, the CONSULTANT agrees to execute a truth-in-negotiations certificate stating that wage rates and other factual unit costs supporting the compensation of this CONTRACT are accurate, complete, and current at the time of contracting; and agrees the original CONTRACT price and

any additions may be adjusted to exclude any significant sums by which the COUNTY determines that such CONTRACT price was increased due to inaccurate, incomplete or non-current wage rates and other factual unit costs. All such CONTRACT adjustments shall be made within one (1) year following the end of the CONTRACT.

**SECTION XXIX - DISADVANTAGE BUSINESS ENTERPRISES/EQUAL OPPORTUNITY  
EMPLOYMENT**

The CONSULTANT shall endeavor to meet the minority business enterprise procurement goal set forth in F.S. 287.042.

During the performance of this CONTRACT the CONSULTANT will not discriminate against any employee or applicant for employment because of race, color, sex, age religion, ancestry, handicap, marital status or national origin. The CONSULTANT will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard of race, color, sex, age religion, ancestry, handicap, marital status or national origin.

**SECTION XXX - INTEREST OF COMMISSIONERS AND OTHERS**

No officers, members or employees of the COUNTY, and no members of its governing body, and no other public official of the governing body of the locality or localities in which services for the facilities are situated or carried out, who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of this project, shall participate in any decision relating to this CONTRACT which affects their personal interest, or have any personal or pecuniary interest, direct or indirect, in this CONTRACT or the proceeds thereof.

**SECTION XXXI - INTEREST OF CONSULTANT**

The CONSULTANT covenants that it presently has no conflict of interest and shall not acquire any interest, direct or indirect, which shall conflict in any manner or degree with the performance of services required to be performed under this CONTRACT. The CONSULTANT further covenants that in the performance of this CONTRACT, no person having any such interest shall be employed by the CONSULTANT.

**SECTION XXXII - ENTIRETY OF CONTRACT**

This writing, together signed Notices to Proceed that may follow, embody the entire CONTRACT and understanding between the parties hereto, and there are no other CONTRACTS or understandings, oral or written, with reference to the subject matter hereof that are not merged herein.

This CONTRACT supersedes all prior agreements, CONTRACTS, proposals, representations, negotiations, letters or other communications between the COUNTY and the CONSULTANT pertaining to services whether written or oral.

No alteration, change, or modification of the terms of this CONTRACT shall be valid unless made in writing, signed by both parties hereto as an addendum to this CONTRACT, or as specifically prescribed in a Task Order.

This CONTRACT, regardless of where executed, shall be governed by and construed according to the laws of the State of Florida.

**SECTION XXXIII - NOTICES**

Any notices, or other written communications pertaining to the enforcement of

provisions contained within this CONTRACT from the CONSULTANT to the COUNTY shall be considered delivered when posted by certified mail or delivered in person to the following address:

Brevard County Manager's Office

Attn: Frank Abbate, County Manager

2725 Judge Fran Jamieson Way, Bldg C

Viera, FL 32940

Any notices, or other written communications pertaining to the enforcement of provisions contained within this CONTRACT from the COUNTY to the CONSULTANT shall be considered delivered when posted by certified mail to the CONSULTANT at the last address left on file with the COUNTY or delivered in person to said CONSULTANT or the CONSULTANT'S authorized representative.

#### **SECTION XXXIV - SURVIVAL OF OBLIGATIONS**

All representations, indemnifications, warranties and guarantees made in, required by or given in accordance with this CONTRACT, as well as all continuing obligations indicated in this CONTRACT, will survive Final Payment, completion and acceptance of the Work and termination or completion of this CONTRACT.

IN WITNESS WHEREOF, the parties hereunto have caused this Contract to be executed by its duly authorized representatives, effective as of the date below on which the last of the parties hereto executes this Contract.

ATTEST:

  
\_\_\_\_\_  
Scott Ellis, Clerk

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA

By:   
\_\_\_\_\_  
Rita Pritchett, Chair  
Date: 6-1-18  
as approved by the Board on \_\_\_\_\_

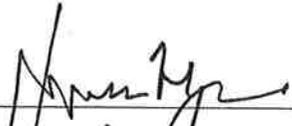
Reviewed for legal form and content:   
\_\_\_\_\_  
Assistant County Attorney

CONSULTANT:

ATTEST:

BUSSEN MAYER-ENGINEERING GROUP

Peter A. Wilson

By:   
Title: Joseph W. Mayer, Pres.  
Date: 05/30/18

TRUTH-IN-NEGOTIATION CERTIFICATE AND AFFIDAVIT

Before me, the undersigned authority, personally appeared Affiant, who being first duly sworn, deposes and says:

1. That the undersigned firm is furnishing this Truth in Negotiation Certificate pursuant to Section 287.055(5)(a) of the Florida Statutes for the undersigned firm to receive a CONTRACT for professional services with the Board of County Commissioners of Brevard County, Florida.

2. That the undersigned firm is a corporation which engages in furnishing professional engineering services and is entering into a CONTRACT with the Board of County Commissioners of Brevard County, Florida to provide professional services for a project known as the Continuing Consultant.

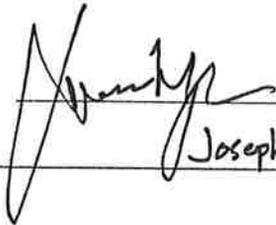
3. That the undersigned firm has furnished the Board of County Commissioners of Brevard County, Florida a detailed analysis of the cost of the professional services required for the project.

4. That the wage rate information and other factual unit costs which the undersigned firm furnished were accurate, complete and current at the time the undersigned firm and the Board of County Commissions entered into the CONTRACT for professional services on the project.

5. That the CONTRACT which the undersigned firm and Brevard County entered into on this job contained a provision that the original CONTRACT price and any additions thereto shall be adjusted to include any significant sums by which the Board of County Commissioners determines the CONTRACT price was increased due to inaccurate, incomplete or non-current wage rates or other factual unit costs and that all such CONTRACT adjustments shall be made within one year following the end of the CONTRACT.

FURTHER AFFIANT SAYETH NAUGHT.

By:



Title:

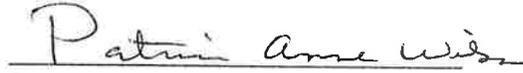
Joseph W. Mayer, Pres.

The foregoing instrument was acknowledged before me by who has produced \_\_\_\_\_ as identification or is personally known to me.

WITNESS my hand and official seal in the State and County last aforesaid this

30 day of May, 2018.

(SEAL)



Signature

Patricia Anne Wilson

Notary Name (typed or printed)



PATRICIA A WILSON  
MY COMMISSION # GG 043175  
EXPIRES: November 5, 2020  
Bonded Thru Budget Notary Services

## PROFESSIONAL SERVICES CONTRACT

This is a CONTRACT by and between the **Board of County Commissioners of Brevard County, Florida** a political subdivision of the State of Florida, hereinafter referred to as COUNTY and **Infrastructure Solution Services, LLC**, a business having its primary location at 7185 Murrell Road, Suite 101, Melbourne, FL 32940, hereinafter referred to as CONSULTANT.

WHEREAS, the COUNTY desires to engage the CONSULTANT to provide design and construction phase services for Indian River Lagoon Program Septic to Sewer Project South Central Zone C (Indian River Isles Subdivision), as further described herein; and

WHEREAS, the CONSULTANT desires to provide such professional services in accordance with this Agreement, and has represented to the COUNTY that it has the competency and experience to perform such services in accordance with the terms and conditions as set forth herein; and

WHEREAS, the CONSULTANT has been selected to perform these professional services pursuant to the provisions of Section 287.055, Florida Statutes and Brevard County Policy BCC-26 (Acquisition of Consultant Professional Services); and

WHEREAS, the provisions of such services shall mutually benefit the parties hereto and the residents of Brevard County, Florida,

NOW THEREFORE, in consideration of the mutual terms and conditions, promises, covenants, and payments hereinafter set forth, the COUNTY and CONSULTANT hereby agree as follows:

### SECTION I. BACKGROUND AND INTENT

Brevard County Utility Services Department (BCUSD) has identified the need to protect the Indian River Lagoon through conversion of septic tanks to sanitary sewer facilities

identified within the South Central Area Zone C ("Indian River Isles"). Funding for this project will be provided by the Save Our Indian River Lagoon (SOIRL) Program. The proposed improvements will provide sanitary sewer service in an area currently utilizing septic tanks. The proposed improvements include: the construction of approximately 10,000 LF of gravity sewer; the construction of three lift stations; and three force mains manifolded to tie into the existing BCUSD sewer system. The COUNTY intends to design all of the improvements in a single phase and bid and construct them over the following year. The concept for this project work and requirements of this septic to sanitary sewer project can be seen in Attachment A.

The intent of this contract is for the CONSULTANT to complete the required field work and data collection for the improvements to be made to the facilities, prepare and coordinate the preliminary and final design of those improvements with the COUNTY, public involvement and outreach, obtain required permits, prepare final bid documents, provide bidding assistance, provide construction administration services, review shop drawings, answer requests for information, provide resident observation services, authorize pay requests, prepare record drawings, provide operation and maintenance manuals, assist with start-up, certify completion of construction, provide public involvement during construction, and assist with the close-out of the project upon completion of construction.

The expectation of the COUNTY is, and it is acknowledged by the CONSULTANT, that the CONSULTANT will coordinate with the COUNTY staff prior to submitting this contract to become familiar with the project requirements in a general way and determine the scope of available documentation and resources.

## SECTION II. PROJECT REPRESENTATIVES

For Brevard County Utility Services:

Mark W. Reagan, PE  
321-633-2089  
[Mark.Reagan@brevardfl.gov](mailto:Mark.Reagan@brevardfl.gov)

For Consultant:

Brian M. Stahl, PE  
321-622-4646  
[bstahl@infrastructuress.com](mailto:bstahl@infrastructuress.com)

## SECTION III. SCOPE OF WORK

The CONSULTANT will provide the preliminary engineering inclusive of data collection, final design, bidding, construction support services, and funding assistance and public involvement as follow:

### Task 1 - Preliminary Engineering

- a) Prepare a data request, and collect, review, and use any available existing data and information provided on the subdivision and available BCUSD nearby SCR Collection System data from the County. Review construction as-built plans.
- b) Prepare aerial survey images for the three collection system service areas for public involvement meetings.
- c) Prepare for and run public involvement meetings and gather public input comments for this septic to sewer project.
- d) Perform boundary and topographic surveys of the three LS sites and FM Routes to tie-in to the existing Brevard County SCR Collection System.
- e) Perform R/W and topographic surveys of the gravity sewer routes incorporating surface locates.
- f) Horizontal and vertical locations of underground features shall be verified by excavation and exposure ("soft-digs").

- g) Perform survey locates of the septic tanks and house connection options (132 houses @ 1hr/household).
- h) Perform legal description of the three LS sites and FM Routes to reach the right of way
- i) Field visit and develop a preliminary opinion of whether to anticipate environmental impacts.
- j) Prepare the three gravity sewer collection system service areas conceptual layouts and plan views for COUNTY review.
- k) Prepare the three LS and FM conceptual layouts and routes to tie-in location for COUNTY review.
- l) Attend a preliminary design review meeting after Tasks 1a) through k) are completed.

**Task 2 -- Final Design**

- a) Perform a Geotechnical Investigation evaluation and report, as required.
- b) Complete the civil, mechanical, structural, electrical, and SCADA engineering of the lift stations, gravity sewer, and force main drawings and specifications consistent with COUNTY standard criteria.
- c) Prepare 60% design plans and technical specifications including three Lift Stations with FM by area, flow estimates, equipment selections with calculations, and opinion of probable cost.
- d) Prepare 60% design plans and technical specifications including three gravity sewer collections systems with laterals off to the property line by area, flow estimates, equipment selections with calculations, and opinion of probable cost.
- e) Attend a 60% design review meeting with the COUNTY.

- f) Prepare for and run public involvement meetings and compile public involvement comments into the 60% design comments.
- g) Prepare 90% design plans and technical specifications, including three Lift Stations with FM by area, flow estimates, equipment selections with calculations, and opinion of probable cost, incorporating comments from the 60% design review and public comments.
- h) Prepare 90% design plans and technical specifications, including three gravity sewer collection systems with laterals off to the property line by area, flow estimates, equipment selections with calculations, and opinion of probable cost, incorporating comments from the 60% design review and public comments.
- i) Prepare the FDEP Wastewater Collection System Permits for the COUNTY to submit to the FDEP Central District. Prepare FDOT and Brevard County Right-of-Way permits. Prepare responses to Requests for Additional Information (RAI). One RAI is anticipated for each of these permits.
- j) Attend a 90% design review meeting with the COUNTY.
- k) Submit the final design (100%) drawings and specifications incorporating comments from the 90% design review and permitting agency comments.
- l) Submit an engineer's opinion of probable cost with the final design submittal.

**Task 3 -- Bidding Assistance**

- a) Prepare bid documents per COUNTY standards. The COUNTY will provide MS Word files of Divisions 0 and 1 specifications for modification by the CONSULTANT.

- b) Compile electronic files of bid documents in PDF format with Division 0, 1, and technical specifications in Microsoft Word format based on bidding in a single contract phase.
- c) Attend the pre-bid meeting.
- d) Prepare answers to bidder questions for the COUNTY to use in preparation and distribution of bid addenda.
- e) Review bids and investigate bidder qualifications.
- f) Prepare a written recommendation for award of the construction contract.
- g) Prepare for and run public involvement meeting and compile public comments prior to Construction Services Phase.

**Task 4 – Construction Support Services**

- a) Attend/prepare for the pre-construction conference.
- b) Review and approve shop drawings.
- c) Answer Contractor questions and Requests for Information (RFI).
- d) Complete necessary field observation and project coordination with the COUNTY inspectors to allow certification. Provide daily field observations during the construction phase. Engineers will provide field observation visits at critical points in the construction for Certification. ISS will provide daily coordination with the Contractor during construction and with the public during construction to make sure issues are resolved quickly. ISS will keep the BCUSD apprised of any issues that arise during construction, and ISS will be available onsite at Indian River Isles during construction (40 weeks actual construction, Project Representative @ 8 hours/day & 5 days/week, Eng. III @ 2 hours/week, Eng. VIII @ .5 hours/week).
- e) Provide field communications with Contractor.

- f) Review and approve Contractor pay requests.
- g) Review and approve Contractor change order requests.
- h) Determine substantial completion.
- i) Approve and submit final record drawings based on the Contractor redlines and the as-built survey information provided by the Contractor's Professional Surveyor.
- j) Provide manufacturer based operation and maintenance manuals.
- k) Coordinate execution of final paperwork to close out the project.
- l) Prepare certificates of completion for the COUNTY to submit to the permitting agencies.

**Task 5 – IRL Funding & Public Involvement Services**

- a) Prepare IRL Program Documentation for funding
- b) Coordinate with Brevard County Natural Resources to meet IRL Program Requirements
- c) Public Involvement Meetings at key point in Construction (One Public Meeting)
- d) General Public Communication to Households (132 houses @ 1 hr/house)

**SECTION IV. COUNTY'S RESPONSIBILITY**

The following shall be provided by the COUNTY in order to assist in the completion of the above mentioned tasks:

- A. Reasonable access to the COUNTY sites.
- B. Reasonable access to operations, maintenance, and engineering staff.
- C. The prior preliminary engineering work completed on this contract.
- D. AutoCAD drawings of COUNTY design standards and MS Word files of standard technical specifications.

- E. Copies of available record drawings.
- F. Copies of available design and construction documents.
- G. Copies of available operating reports and maintenance data and records.
- H. Lift station and SCADA control panel design and specifications.
- I. Microsoft Word template for Division 0 and 1 specifications.
- J. Advertisement and distribution of bid packages.
- K. Submittal of permit applications prepared by the CONSULTANT.
- L. Payment of permit fees.
- M. Coordination with other COUNTY offices and federal and state regulatory agencies.
- N. Coordination with construction Contractor for connection to COUNTY SCADA.
- O. Day to day observation for the 40 weeks of actual construction, plus coordination with CONSULTANT.

**SECTION V. COORDINATION**

The CONSULTANT will coordinate the design with the COUNTY staff members listed below as appropriate:

<b>Function</b>	<b>Name</b>	<b>Email</b>	<b>Phone</b>
Operations Mgr.	Brian Sorensen	<a href="mailto:Brian.Sorensen@brevardfl.gov">Brian.Sorensen@brevardfl.gov</a>	321-633-2093
Area Operations	Robert Edmiston	<a href="mailto:Robert.Edmiston@brevardfl.gov">Robert.Edmiston@brevardfl.gov</a>	321-455-1338
Safety	Mike Malavolta	<a href="mailto:Mike.Malavolta@brevardfl.gov">Mike.Malavolta@brevardfl.gov</a>	321-633-2093
SCADA	Steve Allen	<a href="mailto:Steve.Allen@brevardfl.gov">Steve.Allen@brevardfl.gov</a>	321-255-4331
Construction	Craig Helpling	<a href="mailto:Craig.Helpling@brevardfl.gov">Craig.Helpling@brevardfl.gov</a>	321-633-2089
Engineering	Andy Dugan	<a href="mailto:Andrew.Dugan@brevardfl.gov">Andrew.Dugan@brevardfl.gov</a>	321-633-2089

**SECTION VI. CONSULTANT SERVICES NOT INCLUDED**

The scope of work excludes design of any improvements outside of this scope of work, environmental services related to asbestos-containing materials (for existing structures and demolition), unknown threatened and endangered species, wetlands, or regulated solid wastes

encountered on the site, and all other work not specifically mentioned. Services related to acquisition of real property, easements, or rights-of way are not included.

## **SECTION VII. DELIVERABLES**

The following results shall be delivered by the CONSULTANT:

All deliverables shall be provided only in electronic PDF format unless otherwise noted.

### **Generally:**

- a) Monthly activity reports.
- b) Meeting minutes from meetings and conferences with COUNTY staff and regulatory agencies.
- c) Timely invoices concurrent with the work.

### **Task 1 - Preliminary Engineering**

- a) Boundary and topographic survey with geographic positions or State Plane Coordinates and a permanent benchmark on NAVD88 datum.
- b) Subsurface locate information.
- c) Legal descriptions of the three LS Sites and force main routes on private property.
- d) Conceptual layouts of gravity sewer, LS Sites, and force main routes.

### **Task 2 -- Final Design**

- a) Geotechnical Investigation Report.
- b) Sixty percent (60%) design drawings and technical specifications.
- c) Design information to support equipment selections.
- d) Permit applications as applicable (FDEP, County R/W, FDOT, other). Provide in PDF and hard copies as required.

- e) Ninety percent (90%) design drawings and technical specifications.
- f) Final design drawings in PDF and AutoCAD format with X-refs and plot styles and technical specifications in PDF format.
- g) Engineer's opinion of probable cost at 60%, 90%, and final design

#### **Task 3 – Bidding Assistance**

- a) Specification Divisions 0 and 1 in PDF and MS Word format.
- b) Two hard copies of ready-to-bid, marked "For Construction," signed and sealed, full size final drawings.
- c) One hard copy of ready-to-bid signed, marked "For Construction," and sealed final design specifications.
- d) Answers to bidder's questions as applicable.
- e) Prepare written recommendations for award contracts.

#### **Task 4 – Construction Support Services**

- a) Approved shop drawings (two sets).
- b) Responses to RFI's as applicable.
- c) Record drawings in PDF format and AutoCAD format with X-refs and plot styles with geographic positions or State Plane Coordinates a permanent benchmark on NAVD88 datum.
- d) Operation and maintenance manuals (two hard copies and one PDF).
- e) Certification of Completion (one hard copy and one PDF of each).

### **SECTION VIII. PROJECT SCHEDULE**

The CONSULTANT will complete the contract tasks consistent with the schedule shown in Table A. Project Schedule below.

NOTE: The COUNTY may suspend the CONSULTANT'S schedule for real estate acquisition, environmental remediation, coordination with other projects, or unforeseen circumstances causing delay.

Milestone	Calendar Days to Complete	Sum of Days from NTP
Preliminary Engineering (Mobilization, data collection, locates, survey, easements, public involvement, concepts)	120	120
County review of preliminary engineering	28	148
Property acquisition for lift station sites and other sites	180	328
60% design	72	400
County review of 60% design	28	428
90% design (Including permit applications)	90	518
County review of 90% design	28	546
Final design (100% plans and specifications including Divisions 0 and 1)	20	566
County review of final documents	20	586
Engineering completed	7	593

**SECTION IX. BASIS OF COMPENSATION**

The fee for the scope of work shall not exceed a total of \$420,755.00. The fees shall not exceed the amounts shown in the table below for each specific task without prior COUNTY approval. The COUNTY shall periodically compensate the CONSULTANT a portion of the task fee based on mutually agreed upon percentages of completion of each task.

Task	Description	Fee
1	Preliminary Engineering Services	\$85,380.00
2	Final Design Services	\$112,653.00
3	Bidding Assistance Services	\$13,550.00
4	Construction Support Services	\$176,492.00
5	IRL Funding and Public Involvement Services	\$32,680.00
	Total Fee	\$420,755.00

#### **SECTION X. TIME OF COMPLETION**

The services to be rendered by the CONSULTANT for each section of the work shall commence upon receipt of a written Notice to Proceed from the COUNTY subsequent to the execution of the CONTRACT. CONSULTANT acknowledges that time is of the essence under this CONTRACT.

A reasonable extension of time shall be granted in the event there is a delay on the part of the COUNTY in fulfilling its part of the CONTRACT. Should CONSULTANT be obstructed or delayed in the prosecution or completion of its services as a result of unforeseeable causes beyond the control of the CONSULTANT and not due to its own fault and neglect, such as weather conditions, acts of God or of public enemy, CONSULTANT shall notify the COUNTY in writing of such delay within ten (10) calendar days after commencement of such delay stating the cause or causes thereof, or CONSULTANT shall waive any right the CONSULTANT may have had to request an extension to the CONTRACT. Such extensions of time as stated in the CONTRACT shall be the sole remedy of the CONSULTANT for such delays, and the CONSULTANT will not be entitled to any damages or any claim for extra compensation.

#### **SECTION XI. SCHEDULE OF WORK**

The COUNTY shall have the sole right to determine on which units or sections of the work the CONSULTANT shall proceed and in what order. Should a CONTRACT revision require a change in schedule, a new revised schedule shall be submitted to the COUNTY for review and, if warranted, approved by the COUNTY in writing prior to commencing the revision. The new revised schedule shall be submitted to the COUNTY within ten (10) days of acknowledgement that a change is necessary or as part of the progress report submitted,

whichever comes first. CONSULTANT waives any right to make a claim based upon a revision if such notice was not provided.

**SECTION XII - PAYMENT, PARTIAL PAYMENTS AND RESOLUTION OF DISPUTES**

All payment requests shall follow the requirements as established within Sections 218.70 through 218.79 - Florida Statutes 'Local Government Prompt Payment Act', and Brevard County Administrative Order AO-33 "Prompt Payment of Invoices".

The COUNTY shall make payments to the CONSULTANT for all milestones completed and deliverables submitted under the authorized work, and to the satisfaction of the COUNTY, to the date of the statement.

- A. The CONSULTANT shall submit signed invoices to the COUNTY's project manager.
- B. The amount of each invoice submitted shall be the amount due for all eligible services performed to date in connection with authorized work, as certified by the CONSULTANT. Each invoice shall include any authorized work performed during the invoice date of service, must reference the particular Task name, and must include the invoice date, invoice number, and a list of the itemized charges.
- C. The CONSULTANT's invoice shall be submitted along with the progress report for that billing period.
- D. COUNTY's Project Manager shall review the statement and notify the CONSULTANT in writing within ten (10) days from receipt of the invoice if any amounts requested are disputed or lack adequate support or documentation. COUNTY shall indicate in writing what corrective action

is needed and the time by which a corrected invoice should be received by the COUNTY.

- E. In the event a dispute occurs between the CONSULTANT and the COUNTY concerning payment request or an invoice, such disagreement shall be resolved by a Dispute Committee consisting of representatives of the County Manager's Office, Purchasing and the County Attorney.
- F. Proceedings to resolve any disputed invoice shall commence no later than forty-five (45) days after the date on which a payment request or proper invoice was received by the COUNTY and shall follow requirements of Florida Statutes 218.70 through 218.79 Final decision by the COUNTY shall be concluded no later than sixty (60) days after the date on which the payment request or proper invoice was received by the COUNTY.
- G. If the dispute is resolved in favor of the COUNTY, then interest charges shall begin to accrue fifteen (15) days after the COUNTY'S final decision. If the dispute is resolved in favor of the CONSULTANT, the interest shall begin to accrue as of the original date the payment became due.
- I. No later than thirty (30) days from acceptance by Project Manager of all the work or services covered by the submitted invoice, the COUNTY shall pay the CONSULTANT the amount due for any undisputed work.
- J. The COUNTY is a tax exempt entity and shall not be charged or invoiced for the payment of taxes for work performed under this CONTRACT.
- K. Payment of the Final Invoice shall not constitute evidence of COUNTY'S acceptance of work.
- L. Final invoice shall be clearly marked as such in bold letters. The Final

invoice shall include a report of all the payments made to the CONSULTANT and each Sub-contractor under the Task Order up to date and the amount for the final invoice.

- M. Where termination of the CONTRACT is a termination for convenience and not for cause any reasonable and unavoidable costs incurred due to such termination (such as cancelling orders for equipment, materials or services) such payment shall be borne by the COUNTY.

### SECTION XIII - INDEMNIFICATION & INSURANCE

The CONSULTANT agrees to indemnify and hold the COUNTY harmless against liability for bodily injury, sickness, disease, death or personal injury or damage to property or loss of use and reasonable attorney fees resulting there from, to the extent caused by negligent acts, errors or omissions of the CONSULTANT or other persons employed or utilized by the CONSULTANT in the performance of this CONTRACT To the extent allowable by law, the CONSULTANT agrees to indemnify and pay on behalf of the COUNTY the reasonable cost of the COUNTY'S legal defense as may be selected by the COUNTY, for the defense of all claims described in the hold harmless clause, herein. It is agreed by the parties hereto that specific consideration has been paid under this CONTRACT for this hold harmless provision. Such payment on behalf of the COUNTY shall be in addition to any and all other legal remedies available to the COUNTY and shall not be considered to be the COUNTY'S exclusive remedy.

The CONSULTANT shall provide the following described insurance policies with insurers acceptable to the COUNTY. The insurance coverage and limits required must be evidenced by properly executed Certificates of Insurance submitted to the COUNTY prior to award of this CONTRACT. These policies of insurance shall cover the CONSULTANT for

claims, demands, and expenses, including defense and causes for action for general damages, bodily injury and property damage arising out of or to the extent caused by negligent acts, errors or omissions of the CONSULTANT. Said policies shall provide limits in the amount not less than \$1,000,000.00 per occurrence, with the exception of Professional Liability which shall provide limits of \$1,000,000.00 per claim, to cover claims arising in connection with any particular accident or occurrence.

The CONSULTANT shall also provide and maintain Workers' Compensation insurance (for statutory limits) as required by Florida Statutes, Chapter 440. All policies shall be endorsed to provide COUNTY thirty (30) days prior written notice of any changes or cancellations of said policies. Certificate of Insurance will be provided and maintained with the COUNTY throughout the term of this CONTRACT. These insurance requirements shall not relieve or limit the liability of the CONSULTANT. The COUNTY does not in any way represent that these types or amounts of insurance are sufficient or adequate to protect the CONSULTANT'S interests or liabilities, but are merely minimums.

#### **SECTION XIV - ATTORNEY'S FEES**

In the event any action is taken to enforce the terms of this CONTRACT or any Task Orders under this CONTRACT, each party shall bear its own attorney's fees and costs, and any trial shall be non-jury.

#### **SECTION XV - CONTINGENT FEES**

The CONSULTANT warrants that they have not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT to solicit or secure this CONTRACT and that they have not paid or agreed to pay any person, company,

individual or firm, other than a bona fide employee working solely for the CONSULTANT any fee, commission, percentage, brokerage or contingent fee, gift or any other consideration, contingent upon, or resulting from award or making of this CONTRACT. For any breach or violation of this provision, the COUNTY shall have the right to terminate this CONTRACT, without liability, and, at its discretion, to deduct from the CONTRACT price or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration and any damages and shall be responsible for reporting the details of such breach or violation to the proper legal authorities where and when appropriate.

#### **SECTION XVI - DEFAULT**

In the event the CONSULTANT fails to comply with the provisions of this CONTRACT, the COUNTY may declare the CONSULTANT in default by written notification. Upon receipt of notification, CONSULTANT will be provided ten (10) days in which to cure. In the event that the CONSULTANT is unable to cure and partial payment has been made for professional services not completed or defectively performed, the CONSULTANT shall return any sums due to the COUNTY as a result of CONSULTANT'S default within ten (10) days after notice and demand that said sums are due. The CONSULTANT shall not be compensated on a percentage of any deficient professional services which have been performed at the time the COUNTY declares a default. The COUNTY shall pay for that portion, if any, of the performed work which is used or useful by any other consultant retained by the COUNTY to finish the work to the extent that the COUNTY does not incur additional costs.

#### **SECTION XVII - RIGHT OF APPEAL**

All services shall be performed by the CONSULTANT to current reasonable

professional standards and practices and to the reasonable requirements of the COUNTY. The COUNTY shall decide and dispose of all claims, questions and disputes arising under this CONTRACT. Such determination shall be final, conclusive and binding upon the parties hereto unless such determination is clearly arbitrary or unreasonable. In the event the CONSULTANT does not concur with the decisions of the COUNTY, within ten (10) days after determination by the COUNTY, the CONSULTANT shall present any such objections in writing to the COUNTY and, upon request, any adverse determination shall be referred to an appeal board comprised of a representative of the Purchasing Department, County Manager's Office and another COUNTY representative designated by the County Manager for review and disposition at a hearing to be held within ten (10) days after receipt of the appeal. This paragraph does not constitute a waiver of either party's right to proceed in a court of competent jurisdiction, provided that prior to filing any suit the CONSULTANT goes through the appeal process established in this CONTRACT and provided further that the CONSULTANT strictly abides by the ten-day time deadline set forth in this paragraph.

#### **SECTION XVIII - SUCCESSORS AND ASSIGNS**

The COUNTY and CONSULTANT each binds itself and its partners, successors, executors, administrators and assigns to the other party of this CONTRACT and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this CONTRACT.

Neither the COUNTY nor the CONSULTANT shall assign, sublet or transfer any rights under or interest in (including, but without limitation, monies that may become due or monies that are due) this CONTRACT without the prior written consent of the other, except to the extent that any assignment, subletting or transfer is mandated by law or the effect of this

limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this CONTRACT. Nothing contained in this CONTRACT shall be construed as giving any rights or benefits to any person, party, or entity other than the COUNTY and the CONSULTANT, and all duties and responsibilities undertaken pursuant to this CONTRACT will be the sole and exclusive benefit of the COUNTY and the CONSULTANT, and not for the benefit of any other party.

#### SECTION XIX- TERMINATION/MODIFICATION OF CONTRACT

A. In the event the CONSULTANT disregards the authority of the COUNTY or violates the provisions of this CONTRACT, or otherwise fails to comply with any provisions of this CONTRACT or if the progress or quality of the work is unsatisfactory, Director or designee may serve written notice to CONSULTANT and if CONSULTANT fails within a period of ten (10) calendar days to correct such failure, COUNTY may terminate this CONTRACT upon thirty (30) days written notice to CONSULTANT. Upon termination CONSULTANT shall immediately cease performance of this CONTRACT and shall deliver to COUNTY all completed or partially completed work including but not limited to all original papers, records, drawings, models, and other materials set forth and described in this CONTRACT, within thirty (30) calendar days of the termination date established in the written Notice.

The CONSULTANT may terminate this CONTRACT for any reason upon thirty (30) days written notice, provided that any outstanding approved

Task Order is completed by the CONSULTANT.

- B. In the event of termination by the COUNTY, the COUNTY'S sole obligation to the CONSULTANT shall be payment for those portions of satisfactorily and completely performed work previously authorized and shall be determined on the basis of the work performed by the CONSULTANT, or the percentage of work complete as estimated by the CONSULTANT and agreed upon by the COUNTY up to the time of termination. In the event of such termination, the COUNTY may, without penalty or other obligation to the CONSULTANT, elect to employ other persons to perform the same or similar services.
- C. In the event of any form of claim, dispute, or controversy by or between the parties to this CONTRACT, the parties expressly and unequivocally agree to engage in good faith efforts to meet in person to resolve any and all such differences. Absent such informal resolution of any/all such dispute(s), the parties expressly agree to engage in pre-suit mediation in accordance with the applicable rules of procedure for such mediation as may be in force in the Judicial Circuit Courts in Brevard County.
- D. The terms of this CONTRACT may be modified upon the mutual Agreement of the CONSULTANT and the COUNTY as confirmed in writing.
- E. In the event that the CONSULTANT changes its name, merges with another company, becomes a subsidiary or makes other substantial change in structure or in the principals or project managers of the CONSULTANT, the COUNTY reserves the right to terminate this

CONTRACT subject to the terms prescribed above.

- F. In the event of termination of this CONTRACT the CONSULTANT agrees to surrender any and all documents prepared by the CONSULTANT for the COUNTY in connection with this CONTRACT, of which, the COUNTY shall have full ownership thereof, CONSULTANT may retain copies of such documents for record purposes.

#### **SECTION XX - INDEPENDENT CONTRACTOR**

The CONSULTANT shall perform the services under this CONTRACT as an independent contractor and nothing contained herein shall be construed to be inconsistent with this relationship or status. Nothing in this CONTRACT shall be interpreted or construed to constitute the CONSULTANT or any of its agents or employees to be the agent, employees or representative of the COUNTY.

#### **SECTION XXI - AUDIT RIGHTS**

The COUNTY reserves the right to audit the records of the CONSULTANT related to this CONTRACT at any time during the prosecution of the work included herein and for a period of five years after final payment is made. The CONSULTANT agrees to provide copies of any records necessary to substantiate payment requests to the COUNTY as may be requested by the COUNTY, solely at the cost of reproduction.

#### **SECTION XXII - UNAUTHORIZED ALIEN WORKERS**

Brevard 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. §1324 of the Immigration Nationality Act ("INA"). The COUNTY shall consider a violation of the INA as grounds for unilateral cancellation of this CONTRACT by the COUNTY.

#### **SECTION XXIII - EMPLOYMENT**

The CONSULTANT shall not engage the services of any person or persons now employed by the COUNTY, including any department, agency, board of commission thereof, to provide services relating to the CONTRACT without the written consent from the COUNTY.

#### **SECTION XXIV - PUBLIC ENTITY CRIMES**

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public crime may not perform work as a contractor, supplier, sub-contractor, or CONSULTANT under a CONTRACT with a public entity, and may not transfer business with any public entity in excess of the threshold amount provided in section 287.017 F.S. for CATEGORY TWO for a period of thirty six (36) months from the date of being placed on the convicted vendor list.

#### **SECTION XXV - PROFESSIONAL STAFF, LICENSING AND SUBCONTRACTING**

CONSULTANT was selected in part because of the involvement of certain individuals employed by the CONSULTANT and identified on the Statement of Qualifications of the CONSULTANT. The CONSULTANT agrees that the persons identified in such document shall not be removed for the project without prior written approval by the COUNTY.

CONSULTANT shall notify COUNTY in the event of key personnel changes, which might affect this CONTRACT. Notification shall be made within ten (10) days prior to the

changes. Any such request shall be supported by comprehensive documents outlining the reason(s) for the proposed substitution and include the specific qualifications of the proposed substitute. COUNTY has the right to reject proposed changes in key personnel. Further, COUNTY, in lieu of approving a substitution, may initiate other actions under the CONTRACT, including termination.

CONSULTANT shall at all times during the term of this CONTRACT at its own cost and expense, maintain such licenses as are required for the performance of work referenced herein by this CONTRACT.

CONSULTANT shall maintain an adequate and competent staff of professional engineers and/or architects licensed within the State of Florida.

The CONSULTANT shall not sub-contract, assign, or transfer any work under this CONTRACT without the prior written approval of the COUNTY. When applicable, the CONSULTANT shall cause the names of any sub-contracted firms responsible for major portions (or separate specialty) of the work to be inserted in the pertinent documents or data. Such written consent includes the approval of a Task Order issued by the COUNTY provided the fee proposal for that Task Order indicates the use of such sub-Contractor.

Approval by COUNTY of any sub-contract or of any work shall not relieve CONSULTANT of any responsibility for, or liability in connection with fulfillment of its obligations under this CONTRACT.

#### **SECTION XXVI - OWNERSHIP OF DOCUMENTS**

All documents including but not limited to: detailed reports, tracing, disks, plans, models, programs, specifications, maps, contract documents, record documents, original field survey, data notes, and other tangible work products developed by the CONSULTANT

pursuant to this CONTRACT and any assigned Task Orders shall be delivered to and shall become the property of the COUNTY without restrictions or limitations upon their use or distribution and shall be made available by the CONSULTANT at any time upon request by the COUNTY. When each individual section of work requested pursuant to this CONTRACT is complete, all of the above work products shall be delivered to the COUNTY for its use.

The CONSULTANT shall not be liable for any damages, injury or costs associated with the COUNTY use or distribution of these documents for purposes other than those originally intended by the CONSULTANT.

#### **SECTION XXVII - REUSE OF DOCUMENTS**

The CONSULTANT may not reuse data or work products developed by the CONSULTANT for the COUNTY without express written permission of the COUNTY.

Any plans which the CONSULTANT provides under this CONTRACT shall contain a statement that they are subject to reuse restrictions in accordance with the provisions of Florida Statutes 287.055.

#### **SECTION XXVIII - QUALITY CONTROL**

The CONSULTANT warrants a high level of quality control and accuracy.

The CONSULTANT shall perform all services with the standard of care and skill ordinarily performed by like professionals performing similar work.

When necessary, the COUNTY may request additional data collection or re-analysis of data at no expense to the COUNTY. If the original data collected or data analysis is found to be accurate and reasonable, the CONSULTANT shall be compensated for the additional work in accordance with Section VIII of this Agreement.

**SECTION XXIX - NON EXCLUSIVE CONTRACT**

The parties acknowledge that this CONTRACT is not an exclusive CONTRACT and the COUNTY may employ other engineers, professional or technical personnel to furnish services for the COUNTY, as the COUNTY, in its sole discretion, finds is in the public interest.

The COUNTY reserves the right to assign such work to the CONSULTANT as it may approve in the sole discretion of the COUNTY.

**SECTION XXX - TRUTH-IN-NEGOTIATIONS**

In accordance with the provisions of Chapter 287.055, Florida Statutes, the CONSULTANT agrees to execute a truth-in-negotiations certificate stating that wage rates and other factual unit costs supporting the compensation of this CONTRACT are accurate, complete, and current at the time of contracting; and agrees the original CONTRACT price and any additions may be adjusted to exclude any significant sums by which the COUNTY determines that such CONTRACT price was increased due to inaccurate, incomplete or non-current wage rates and other factual unit costs. All such CONTRACT adjustments shall be made within one (1) year following the end of the CONTRACT.

**SECTION XXXI - DISADVANTAGE BUSINESS ENTERPRISES/EQUAL OPPORTUNITY  
EMPLOYMENT**

The CONSULTANT shall endeavor to meet the minority business enterprise procurement goal set forth in F.S. 287.042.

During the performance of this CONTRACT the CONSULTANT will not discriminate against any employee or applicant for employment because of race, color, sex, age religion, ancestry, handicap, marital status or national origin. The CONSULTANT will take affirmative

action to ensure that applicants are employed, and that employees are treated during employment, without regard of race, color, sex, age religion, ancestry, handicap, marital status or national origin.

**SECTION XXXII - INTEREST OF COMMISSIONERS AND OTHERS**

No officers, members or employees of the COUNTY, and no members of its governing body, and no other public official of the governing body of the locality or localities in which services for the facilities are situated or carried out, who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of this project, shall participate in any decision relating to this CONTRACT which affects their personal interest, or have any personal or pecuniary interest, direct or indirect, in this CONTRACT or the proceeds thereof.

**SECTION XXXIII - INTEREST OF CONSULTANT**

The CONSULTANT covenants that it presently has no conflict of interest and shall not acquire any interest, direct or indirect, which shall conflict in any manner or degree with the performance of services required to be performed under this CONTRACT. The CONSULTANT further covenants that in the performance of this CONTRACT, no person having any such interest shall be employed by the CONSULTANT.

**SECTION XXXIV - ENTIRETY OF CONTRACT**

This writing, together signed Notices to Proceed that may follow, embody the entire CONTRACT and understanding between the parties hereto, and there are no other CONTRACTS or understandings, oral or written, with reference to the subject matter hereof

that are not merged herein.

This CONTRACT supersedes all prior agreements, CONTRACTS, proposals, representations, negotiations, letters or other communications between the COUNTY and the CONSULTANT pertaining to services whether written or oral.

No alteration, change, or modification of the terms of this CONTRACT shall be valid unless made in writing, signed by both parties hereto as an addendum to this CONTRACT, or as specifically prescribed in a Task Order.

This CONTRACT, regardless of where executed, shall be governed by and construed according to the laws of the State of Florida.

#### SECTION XXXV - NOTICES

Any notices, or other written communications pertaining to the enforcement of provisions contained within this CONTRACT from the CONSULTANT to the COUNTY shall be considered delivered when posted by certified mail or delivered in person to the following address:

Brevard County Manager's Office

Attn: Frank Abbate, County Manager

2725 Judge Fran Jamieson Way, Bldg C

Viera, FL 32940

Any notices, or other written communications pertaining to the enforcement of provisions contained within this CONTRACT from the COUNTY to the CONSULTANT shall be considered delivered when posted by certified mail to the CONSULTANT at the last address left on file with the COUNTY or delivered in person to said CONSULTANT or the CONSULTANT'S authorized representative.

**SECTION XXXVI - SURVIVAL OF OBLIGATIONS**

All representations, indemnifications, warranties and guarantees made in, required by or given in accordance with this CONTRACT, as well as all continuing obligations indicated in this CONTRACT, will survive Final Payment, completion and acceptance of the Work and termination or completion of this CONTRACT.

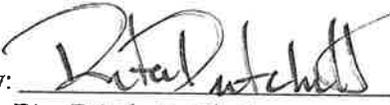
IN WITNESS WHEREOF, the parties hereunto have caused this Contract to be executed by its duly authorized representatives, effective as of the date below on which the last of the parties hereto executes this Contract.

COUNTY:

ATTEST:

  
\_\_\_\_\_  
Scott Ellis, Clerk

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA

By:   
\_\_\_\_\_  
Rita Pritchett, Chair  
Date: 6-1-18  
as approved by the Board on \_\_\_\_\_

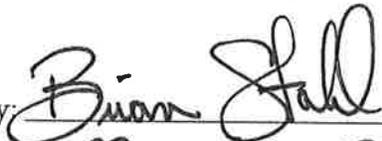
Reviewed for legal form and content:   
\_\_\_\_\_  
Assistant County Attorney

**CONSULTANT:**

**ATTEST:**

INFRASTRUCTURE SOLUTION SERVICES, LLC



By:   
Title: Managing Member  
Date: 05/07/18

TRUTH-IN-NEGOTIATION CERTIFICATE AND AFFIDAVIT

Before me, the undersigned authority, personally appeared Affiant, who being first duly sworn, deposes and says:

1. That the undersigned firm is furnishing this Truth in Negotiation Certificate pursuant to Section 287.055(5)(a) of the Florida Statutes for the undersigned firm to receive a CONTRACT for professional services with the Board of County Commissioners of Brevard County, Florida.
2. That the undersigned firm is a corporation which engages in furnishing professional engineering services and is entering into a CONTRACT with the Board of County Commissioners of Brevard County, Florida to provide professional services for a project known as the Continuing Consultant.
3. That the undersigned firm has furnished the Board of County Commissioners of Brevard County, Florida a detailed analysis of the cost of the professional services required for the project.
4. That the wage rate information and other factual unit costs which the undersigned firm furnished were accurate, complete and current at the time the undersigned firm and the Board of County Commissions entered into the CONTRACT for professional services on the project.
5. That the CONTRACT which the undersigned firm and Brevard County entered into on this job contained a provision that the original CONTRACT price and any additions thereto shall be adjusted to include any significant sums by which the Board of County Commissioners determines the CONTRACT price was increased due to inaccurate, incomplete or non-current wage rates or other factual unit costs and that all such CONTRACT adjustments shall be made within one year following the end of the CONTRACT.

FURTHER AFFIANT SAYETH NAUGHT.

By: Brian Stahl  
Title: Managing Member

The foregoing instrument was acknowledged before me by who has produced FL DRIV. LICENSE as identification or is personally known to me.

WITNESS my hand and official seal in the State and County last aforesaid this

7th day of MAY, 2018.

(SEAL)



Charles Sharman  
State of Florida  
My Commission Expires 07/31/2019  
Commission No. FF 240431

Charles Sharman  
Signature

CHARLES SHARMAN  
Notary Name (typed or printed)

## DISASTER DEBRIS COLLECTION, REDUCTION AND DISPOSAL SERVICES

### AGREEMENT

THIS AGREEMENT is dated this 24<sup>th</sup> day of May, 2018 by and between the BREVARD COUNTY BOARD OF COMMISSIONERS a political subdivision of the State of Florida, (hereinafter called COUNTY), whose mailing address is 2725 Judge Fran Jamieson Way, Viera, Florida 32940 and AshBritt, Incorporated as a State of Florida corporation (hereinafter called CONTRACTOR), whose mailing address is 565 East Hillsboro Boulevard, Deerfiled Beach, FL 33441.

### RECITALS

WHEREAS, the Brevard County Board of County Commissioners (the COUNTY) is charged with protecting the health, safety and welfare of the citizens of Brevard County, and

WHEREAS, Brevard County is a coastal county that is vulnerable to being struck by hurricanes and other major storms, and

WHEREAS, Brevard County is a thriving tourist and economic community, and

WHEREAS, the expedient removal of storm debris minimizes the threats to the public health and safety and provides for immediate economic recovery, and

WHEREAS, Brevard County intends to seek reimbursement from federal and state agencies for emergency removal of storm debris in accordance with the requirements of the Federal Emergency Management Agency (FEMA) and other federal and state programs;

WHEREAS, the COUNTY issued a Request for Proposals (RFP) to procure the most qualified and experienced storm debris contractors to assist the COUNTY in its recovery from a hurricane or other major storm, and

WHEREAS, AshBritt, Incorporated (CONTRACTOR) was competitively selected from a field of contractors responding to the COUNTY's RFP as having the preferred experience, equipment, manpower, permits, and licenses, to perform storm debris removal, and

NOW THEREFORE, in consideration of the mutual terms and conditions, promises, covenants, and payments hereinafter set forth, the COUNTY and CONTRACTOR agree as follows:

## 1. DEFINITIONS

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

**Addenda** - Written or graphic instruments issued prior to the opening of Proposals that clarify, correct or change the Proposal Requirements or the Contract Documents.

**Agreement** - The written contract between COUNTY and CONTRACTOR covering the Work to be performed; other Contract Documents are attached to the Agreement and made a part thereof as provided therein.

**Bonds** - Performance and Payment bonds and other instruments of security.

**Collection or Removal** – The pickup and hauling of eligible disaster debris from public and private roads and right of ways.

**Comprehensive Emergency Management Plan** – The Plan adopted by the Board of County Commissioners that...

**Construction and demolition debris**- Discarded materials generally from the construction or destruction of a structure considered to be not water soluble and non-hazardous in nature, including but not limited to steel, glass, brick, concrete, asphalt roofing material, pipe, gypsum wallboard, and lumber.

**Contract Documents** - The Agreement, Exhibits, Addenda (which pertain to the Contract Documents), CONTRACTOR's Proposal (including documentation accompanying the Proposal and any post Proposal documentation submitted prior to the Notice of Award) when attached as an exhibit to the Agreement, the Notice to Proceed, the Bonds, together with all Written Amendments, issued pursuant on or after the Effective Date of the Agreement.

**Contract Price** - The money payable by COUNTY to CONTRACTOR for completion of the Work in accordance with the Contract Documents as stated in the Agreement and subject to the provisions of **ARTICLE 12-Unit Price Work** in the case of Unit Price Work.

**Contract Times** – The numbers of days or the dates stated in a Notice to Proceed to complete the Work.

**CONTRACTOR** - The person, firm or corporation with whom COUNTY has entered into the Agreement.

**COUNTY** - The Brevard County Board of County Commissioners a political subdivision of the State of Florida for whom the Work is to be provided.

**Debris Management Plan (DMP)** - The Brevard County Solid Waste Management Department, Debris Management Plan, and any subsequent amendments, supplements or revisions, used by Brevard County to efficiently and cost effectively manage the debris removal during a public emergency to mitigate the threat to the health, safety and welfare of residents.

**Defective Work** - Work that is unsatisfactory, faulty or deficient, in that it does not conform to the Contract Documents, or does not meet the requirements of any inspection test or approval referred to in the Contract Documents.

**Disaster Debris** – Disaster generated debris or debris that includes, but is not limited to broken or discarded building and construction materials, garbage, vegetative matter and spoiled or ruined household goods or materials deposited on county-owned property or right-of-way or on private roads as a direct result of a major disaster or a catastrophic disaster as described in the CEMP and DMP. The term does not include:

- a. Debris from vacant lots, forests, heavily wooded areas, unimproved property, and unused areas;
- b. Debris on agricultural lands used for crops or livestock; concrete slabs or foundations-on-grade; or
- c. Construction and demolition debris consisting of materials used in the reconstruction of disaster-damaged improved property.

**Disaster Recovery Management Consultant (DRMC)** – COUNTY’S Consultant that supports Brevard County and participating municipalities in the management of disaster recovery and debris removal services after the County has suffered catastrophic events such as tornadoes and hurricanes. These services involve comprehensive management of the County’s disaster recovery program, including planning and executing debris collection and disposal, and ensuring road clearance schedules are adhered to. When activated, the DRMC serves as the COUNTY’S designee in directing disaster recovery efforts, including managing debris pick up and disposal tasks. The DRMC will be responsible for ensuring compliance with all FEMA requirements, including monitoring, truck and trailer certifications, load ticket validations and ticket accounting services. In addition, the DRMC will provide comprehensive community relations support during all phases of the disaster recovery including progress reports, damage complaint investigations and resolutions, media relations, fact sheets, telephone call centers, and participating in public meetings.

**Effective Date of the Agreement** - The effective date of this Agreement means the date on which the last of the parties hereto executes this Agreement. The date indicated in the Agreement on which it becomes effective, but if no such date is indicated it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.

**FEMA** – Federal Emergency Management Agency.

**FDEM** – Florida Division of Emergency Management.

**Hazardous Waste** - The term Hazardous Waste shall have the meaning provided in 40 CFR 261.3 as amended from time to time.

**Household Hazardous Waste (HHW)** – Leftover household products that can catch fire, react, or explode under certain circumstances, or that are corrosive or toxic. HHW includes paints, cleaners, motor oil, batteries, pesticides, propane tanks, antifreeze, etc.

**Invoice** - The form accepted by COUNTY which is to be used by CONTRACTOR in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.

**Laws and Regulations; Laws or Regulations** - Any and all applicable laws, rules, regulations, ordinances, codes and orders of any and all governmental bodies, agencies, authorities and courts having jurisdiction.

**Liens** - Liens, charges, security interests, or encumbrances upon real property or personal property.

**Notice of Award** - The written notice by the COUNTY to the apparent successful Proposer stating that, upon compliance by the apparent successful Proposer with the conditions precedent enumerated therein within the time specified, the COUNTY will sign and deliver the Agreement.

**Notice to Proceed** - A written notice given by the COUNTY to CONTRACTOR fixing the date on which the Contract Times will commence to run and on which CONTRACTOR shall start to perform CONTRACTOR's obligations under the Contract Documents.

**Project** - The total Work to be provided under the Contract Documents that may be the whole or a part as indicated elsewhere in the Contract Documents.

**Project Area** - The area assigned to the CONTRACTOR where Work is to be performed within unincorporated Brevard County and participating municipalities as identified by the COUNTY.

**Public Information Officer** – Person assigned to provide information to the community regarding the disaster recovery efforts and activities to be performed by the COUNTY and CONTRACTOR during emergency clean-up operations.

**Solid Waste Management Facility** – A permitted landfill or disposal facility permitted to accept debris by the Florida Department of Environmental Protection.

**Subcontractor** - An individual, firm, or corporation having a direct contract with CONTRACTOR or with any other Subcontractor for performance of a part of the Work in the Project Area.

**Supplier** - A manufacturer, fabricator, supplier, distributor, materialman, or vendor having direct contract with CONTRACTOR or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by CONTRACTOR or any Subcontractor.

**Temporary Disaster Debris Management Site (DDMS)** – a location approved by the COUNTY and permitted by the Florida Department of Environmental Regulation for the temporary storage of debris during a declared emergency.

**Underground Facilities** - All pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities which have been installed underground to furnish any of the following services or materials: electricity, gases, steam, liquid petroleum products, telephone, or other communications, cable television, sewage and drainage removal, traffic or other control systems or water.

**Utilities** - All cables, wires, or other such facilities or attachments, and any encasements containing such facilities which have been installed above or below ground to furnish any of the following services or materials: electricity, telephone, cable television, internet or other communications.

**Work** - The entire completed Project or the various separately identifiable tasks thereof required to be furnished under the Contract Documents. Work includes all tasks described in the **Scope of Work, Exhibit A** required to: (i) collect, sort, process, and dispose of debris, (ii) build, operate, and maintain DDMS as

required by the Contract Documents and (iii) haul and dispose of processed debris. The Work is the result of performing or furnishing labor, materials, tools, equipment and other means necessary and incidental to the performance of such tasks as required by the Contract Documents.

**Work Zones** – subareas within the Project Area designated by the COUNTY and delineated on Project maps to aid in the efficient collection and removal of debris by the CONTRACTOR.

**Written Amendment** - A written amendment of the Contract Documents, signed by the COUNTY and CONTRACTOR on or after the Effective Date of the Agreement that normally deals with the non-technical aspects of the Contract Documents.

## **2. SCOPE OF WORK**

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- 2.1. The COUNTY does hereby retain the CONSULTANT and CONTRACTOR shall furnish all labor, materials, equipment, machinery, tools, apparatus and transportation necessary to perform the services specified in the **Scope of Work, Exhibit A**, attached hereto and made apart hereof by this reference and as which may, from time to time, be assigned to CONTRACTOR by the COUNTY pursuant to a Notice to Proceed. The services generally include disaster debris removal operations from residential public and private streets, roads and right-of-ways, public properties and facilities; delivery of debris to Temporary Disaster Debris Management Sites (DDMS) or authorized landfills; operation of DDMS including daily operations and reclamation of the DDMS to pre-storm condition or as directed by the COUNTY; and processing, loading and hauling material from DDMS to final destination.
- 2.2. The COUNTY, by virtue of this Agreement, gives the CONTRACTOR no guarantee of any work/services or any specific amount of work/services that may be accomplished during the period this Agreement is in full force and effect.

## **3. TERM**

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- 3.1. The term of this Agreement shall be five (5) years from the effective date of this Agreement, unless otherwise terminated as provided herein.

## **4. COMPENSATION**

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- 4.1. COUNTY shall pay CONTRACTOR for Work provided under this Agreement as provided in **Fee Schedule, Exhibit B**, which is attached hereto and incorporated by reference as part of this Agreement. The County reserves the right to deduct from any invoice an amount for defective or nonconforming work or for work not provided but invoiced. The County shall remit payment in accordance with the Florida Prompt Payment Act, Florida Statute section 218.70, et seq.
- 4.2. The Unit Pricing for debris type set out in **Fee Schedule, Exhibit B**, includes all costs for labor, materials, equipment, machinery, tools, apparatus and transportation necessary to perform the services specified in the **Scope of Work, Exhibit A**, including debris pickup, hauling, processing and disposal, as well as setup, operation and reclamation of DDMS.
- 4.3. The COUNTY will retain 10% of the payment from each invoice until such time as the entire project is completed to the COUNTY'S satisfaction and all subcontractors and any material suppliers verify that they have been paid.

## 5. INDEMNIFICATION

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- 5.1. The CONTRACTOR shall indemnify and hold harmless the COUNTY and its agents and employees from and against all claims, damages, losses, and expenses, including attorney's fees arising out of or resulting from the performance of its work under this Agreement, where such claim, damage, loss, or expense is caused, in whole or in part, by the act or omission of the CONTRACTOR, its subcontractors, or anyone directly or indirectly employed by the CONTRACTOR, or anyone for whose acts any of them may be liable, regardless of whether or not it is caused by in part by a party indemnified thereunder. In any and all claims against the COUNTY, or any of its agents or anyone directly or indirectly employed by the CONTRACTOR, its subcontractors, or anyone for whose acts any of them may be liable, indemnification obligation under this paragraph shall not be limited in any way by a limitation on the amount or type of damages, compensation or benefits payable by or for the custodial contractor, under workers' compensation acts, or other related policies of insurance.
- 5.2. It is agreed by the parties hereto that specific consideration has been received by the CONTRACTOR under this Agreement for this indemnification provision.

## 6. MODIFICATIONS TO AGREEMENT

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This contract, together with any exhibits, Notices to Proceed, and schedules constitute the entire contract between the County and the Contractor and supersedes all prior written or oral understandings. This contract and any exhibits, task assignments and schedules may only be amended, supplemented or canceled by a written instrument duly executed by the parties hereto.

## 7. CONTRACTOR'S LIABILITY INSURANCE

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- 7.1. During the performance of the Services under this Agreement, the CONTRACTOR shall procure and maintain at their own expense and without cost to the COUNTY, the following types of insurance. The policy limits are considered minimum amounts. The policies shall be written by an insurance company authorized to do business in Florida:
- 7.1.1. **Comprehensive General Liability** insurance covering all operations, including legal liability and completed operations/products liability, with minimum limits of One Million Dollars (\$1,000,000.00) combined single limit per occurrence.
  - 7.1.2. **Comprehensive Automobile and Water Vehicle Liability Insurance** covering owned, non-owned or rented automotive equipment to be used in performance of the work with minimum limits of One Million Dollars (\$1,000,000.00) combined single limit per occurrence.
  - 7.1.3. **Workers' Compensation** insurance shall be in the amounts and in the form prescribed by the laws of Florida.
  - 7.1.4. The aggregate limit of Liability Insurance Limits is five million dollars (\$5,000,000). Umbrella policies are acceptable.
- 7.2. CONTRACTOR shall furnish COUNTY with Certificate(s) of Insurance on all the policies of insurance and renewals thereof in a form(s) acceptable to the County. Said Liability Policies shall provide that

the County be an additional insured. The County shall be notified in writing of any reduction, cancellation or substantial change of policy or policies at least thirty (30) days prior to the effective date of said action. All insurance policies shall be issued by responsible companies who are acceptable to the County and licensed and authorized under the laws of the State of Florida.

- 7.3. All CONTRACTOR's sub-contractors shall be required to include COUNTY and CONTRACTOR as additional insured on their General Liability insurance policies. In the event that sub-contractors used by the CONTRACTOR do not have insurance, or do not meet the insurance limits, CONTRACTOR shall indemnify and hold harmless the COUNTY for any claim in excess of the sub-contractors insurance coverage.
- 7.4. Within twenty-four (24) hours of a Notice to Proceed, but before any Work has started, CONTRACTOR shall deliver to the COUNTY certificates of insurance for the CONTRACTOR's workforce and subcontractors.
- 7.5. The CONTRACTOR shall not commence work under this Agreement until all insurance required as stated herein has been obtained and such insurance has been approved by the COUNTY.
- 7.6. The required insurance coverages shall remain in effect at least until final payment and at all times thereafter when CONTRACTOR may be correcting, removing or replacing Defective Work.

## **8. PERFORMANCE, PAYMENT, OR OTHER BONDS**

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- 8.1. CONTRACTOR shall maintain a Proposal Bond in the sum of \$500,000 in effect until the required Performance and Payment Bond is submitted to and accepted by the COUNTY. The CONTRACTOR'S Proposal Bond will be returned to the CONTRACTOR in exchange for and acceptance of an appropriate sized Performance and Payment bond, as determined by the COUNTY after assessment of damage and definition of the CONTRACTOR'S scope of service.
- 8.2. In case of hurricane caused damage, landfall in Brevard County by Category I storm winds would require a \$2,000,000 Bond, Category II winds would require a \$4,000,000 Bond, Category III winds would require a \$6,000,000 Bond, Category IV winds would require an \$8,000,000 Bond, and Category V would require a \$10,000,000 Bond. The Bond required could be a **Performance and Payment Bond, Exhibit C**. The cost of the Bond is included in the unit rates in the **Fee Schedule, Exhibit B**. The Performance Bond shall be submitted within 10 days of Notice to Proceed.
- 8.3. If the CONTRACTOR fails to supply a Performance and Payment Bond, the COUNTY shall be entitled to retain the Proposal Bond to rectify the CONTRACTOR'S unacceptable performance. Pending successful annual CONTRACTOR re-certification, the Proposal Bond shall be in effect for the entire term of the Contract except for the period(s) of time when a Performance and Payment Bond is in effect.
- 8.4. If the surety on any Bond furnished by CONTRACTOR is declared a bankrupt or becomes insolvent or its right to do business is terminated in Florida or it ceases to meet the requirements of this section, CONTRACTOR shall within ten days thereafter substitute another bond and surety, both of which must be acceptable to the COUNTY.
- 8.5. All Bonds required by the Contract Documents to be purchased and maintained by CONTRACTOR shall be obtained from surety companies that are duly licensed or authorized in Brevard County,

Florida to issue Bonds for the coverages so required.

## 9. AUTHORIZED REPRESENTATIVES AND NOTICES

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9.1. The authorized representative for the COUNTY is Euripides Rodriguez, Director, Brevard County Solid Waste Management Department and the authorized representative of the CONTRACTOR is \_\_\_\_\_.

9.2. Any notices required or permitted by this Agreement shall be in writing and shall be deemed delivered upon receipt of email, fax or hand delivery, or three (3) days following deposit in the United States postal system, postage prepaid, return receipt requested, addressed to the parties at the following addresses:

FOR BREVARD COUNTY  
Euripides Rodriguez, Director,  
Solid Waste Management Department  
2725 Judge Fran Jamieson Way  
Building A, 118  
Viera, Florida 32940  
Email: [euripides.rodriguez@brevardfl.gov](mailto:euripides.rodriguez@brevardfl.gov)

FOR CONTRACTOR  
Brittany Perkins  
AshBritt, Incorporated  
565 East Hillsboro Boulevard  
Deerfield Beach, FL 33441  
Email: [bperkins@ashbritt.com](mailto:bperkins@ashbritt.com)

9.3. Either party shall have the right to change its address for notice purposes at any time throughout the term hereof, by sending written notice of such change of address to the other party in accordance with the provisions hereof not less than ten (10) days prior to the effective date of such change.

## 10. CONTRACTOR'S RESPONSIBILITIES

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- 10.1. CONTRACTOR shall furnish and assume full responsibility for all labor, materials, equipment, transportation, equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities and all other facilities and incidentals necessary for the furnishing, performance, and completion of the Work, as required in the **Scope of Work, Exhibit A**, and specifically identified in a Notice to Proceed.
- 10.2. The CONTRACTOR shall perform the Work in compliance with all Federal contract provisions outlined or referred to in 44 CFR 13.36(b) and 2 CFR 200.317 thru 326.
- 10.3. CONTRACTOR shall provide competent, suitably qualified personnel to execute the Work as required by the Contract Documents. CONTRACTOR shall be responsible for recruiting, hiring, training, supervising, disciplining and discharging personnel necessary to perform the Work. CONTRACTOR shall, at all times, remain liable for the proper performance and completion of all work and other services required hereby, including supervision and administration of all such personnel, firms and companies.
- 10.4. CONTRACTOR shall confirm the eligibility of all persons employed by the CONTRACTOR during the term of the Agreement to perform employment duties within Florida in accordance with US Department of Homeland Security's E-Verify as updated or amended.
- 10.5. Except as otherwise required for the safety or protection of persons or the Work or property within the Project Area or adjacent thereto, all Work within the site shall be performed from one hour

before sunrise to one hour before sunset seven day per week, including holidays, unless otherwise directed by the COUNTY in writing. If conditions warrant, the COUNTY by written notice may require CONTRACTOR to execute the Work on a twenty-four (24) hour per day basis. The COUNTY may also by written notice reduce the Contractor's working hours as the Project progresses.

- 10.6. CONTRACTOR shall at all times during progress of the Work employ a competent Project Manager located within Brevard County, who shall not be replaced without written notice to the COUNTY except under extraordinary circumstances. The Project Manager will be CONTRACTOR's representative in the Project Area and shall have authority to act on behalf of CONTRACTOR. The name and contact information of the Project Manager will be provided to the COUNTY in writing prior to start of any Work. All communications to the Project Manager shall be as binding as if given to CONTRACTOR. The CONTRACTOR's Project Manager shall have access to, and be proficient in the use of, up-to-date communication equipment and computer software utilized by the COUNTY and the COUNTY's CONSULTANT during execution of the Work.
- 10.7. The CONTRACTOR does not have the power or authority to bind the COUNTY in any promise, agreement or representation other than specifically provided for in this Agreement.
- 10.8. The CONTRACTOR shall not pledge the COUNTY's credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgment, lien or any form of indebtedness. The CONTRACTOR further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement.
- 10.9. In the event the COUNTY has not canceled the Agreement in accordance with the terms of the Agreement, and there remains a dispute between the CONTRACTOR and the COUNTY, the CONTRACTOR agrees to continue to operate and perform under the terms of the Agreement while such dispute is pending, and further agrees that, in the event a suit is filed for injunction or other relief, it will continue to provide services until the final adjudication of such suit by the court.

## **11. SUBCONTRACTORS**

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- 11.1. CONTRACTOR shall have the right to subcontract portions of the services required to be performed to other firms, persons and companies from time to time, to carry out any applicable Work or portion thereof.
- 11.2. CONTRACTOR shall be fully responsible to the COUNTY for all acts and omissions of the Subcontractors performing or furnishing any of the Work under a direct or indirect contract with CONTRACTOR just as CONTRACTOR is responsible for CONTRACTOR's own acts and omissions. Nothing in the Contract Documents shall create for the benefit of any such Subcontractor any contractual relationship between the COUNTY and any such Subcontractor nor shall it create any obligation on the part of the COUNTY to pay or to see to the payment of any moneys due any such Subcontractor except as may otherwise be required by Laws and Regulations.
- 11.3. CONTRACTOR shall be solely responsible for scheduling and coordinating the Work of Subcontractors.
- 11.4. All Work performed by CONTRACTOR or by a Subcontractor will be pursuant to an appropriate agreement between CONTRACTOR and the Subcontractor that specifically binds the Subcontractor to the applicable terms and conditions of the Contract Documents for the benefit of the COUNTY.

Whenever any such agreement is with a Subcontractor who is listed as an additional insured on the liability insurance provided in Section 9 - Insurance, the agreement between the CONTRACTOR and the Subcontractor will contain provisions whereby the Subcontractor waives all rights against the COUNTY, CONTRACTOR, the COUNTY's Consultants and all other additional insured for all losses and damages caused by, arising out of or resulting from any of the perils covered by such policies and any other liability insurance applicable to the Work. If the insurers on any such policies require separate waiver forms to be signed by any Subcontractor, CONTRACTOR will obtain the same.

## **12. PAYMENTS TO CONTRACTOR**

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- 12.1. The COUNTY shall establish a schedule for submittal of invoices from the CONTRACTOR. These dates will be based upon the dates established by the State of Florida and Federal Cost Share sliding scale for Category A debris removal. These dates will be provided to the CONTRACTOR as soon as they are made available to the COUNTY by the State. Otherwise the CONTRACTOR shall invoice the COUNTY no more frequently than monthly.
- 12.2. CONTRACTOR shall submit invoices for payment to the COUNTY for services performed covering the periods that corresponds to the State of Florida and Federal Cost Share sliding scale dates for Category A debris removal, or as otherwise directed in writing by the COUNTY.
- 12.3. Invoices must be of appropriate audit quality detail to satisfy FEMA requirements and be accompanied by copies of load tickets, truck certifications, disposal tickets, current Project Schedule and other such supporting documentation required by the Contract Documents.
- 12.4. The COUNTY will accept the invoice or reject the invoice and indicate in writing the COUNTY's reasons for refusing to accept the invoice. CONTRACTOR shall make the necessary corrections and resubmit the invoice. Accepted invoices will be paid in within the timeframe specified in Section 218.70, et seq., Florida Statutes, the "Florida Prompt Payment Act".
- 12.5. The COUNTY shall withhold a ten percent (10%) retainage from each invoice until final inspection of the Work including restoration of all DDMS has been completed and has been found to meet the requirements of the Contract Documents by the COUNTY.
- 12.6. Upon written notice from CONTRACTOR that the entire Work or an agreed portion thereof is complete, COUNTY will make a final inspection with CONTRACTOR and will notify CONTRACTOR in writing of all particulars in which this inspection reveals that the Work is incomplete or defective. CONTRACTOR shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.
- 12.7. After CONTRACTOR has completed all such corrections to the satisfaction of the COUNTY CONTRACTOR may submit their final invoice.
- 12.8. If on the basis of COUNTY's observation of the Work and COUNTY's review of the final invoice and accompanying documentation as required by the Contract Documents, COUNTY is satisfied that the Work has been completed and CONTRACTOR's other obligations under the Contract Documents have been fulfilled, final payment will become due by the COUNTY and will be paid to CONTRACTOR.
- 12.9. Upon approval of the final invoice and satisfactory completion and acceptance of all restoration

work at the DDMS by the COUNTY, the CONTRACTOR shall invoice the COUNTY for retainage and COUNTY shall pay all accumulated retainage.

### **13. SUSPENSION OF WORK AND TERMINATION**

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#### **13.1. Suspension of Work**

13.1.1. At any time and without cause, the COUNTY may suspend the Work or any portion thereof for a period of not more than thirty days by notice in writing to CONTRACTOR that will fix the date on which Work will be resumed. CONTRACTOR shall resume the Work on the date so fixed.

#### **13.2. Termination for Default**

13.2.1. CONTRACTOR shall be considered in material default of the Agreement and such default shall be considered cause for the COUNTY to terminate the Agreement, in whole or in part, as further set forth in this Section, if Contractor:

- a. fails to begin the Work under the Contract Documents within the time specified herein; or
- b. fails to properly and timely perform the Work as directed by the COUNTY or as provided for in the approved progress schedule; or
- c. discontinues the prosecution of the Work; or
- d. fails to resume Work which has been suspended within a reasonable time after being notified to do so; or
- e. becomes insolvent or is declared bankrupt, or commits any act of bankruptcy; or
- f. allows any final judgment to stand against it unsatisfied for more than ten (10) days; or
- g. makes an assignment for the benefit of creditors; or
- h. fails to obey any applicable codes, laws, ordinances, rules or regulations with respect to the work; or
- i. materially breaches any other provision of the Contract Documents.

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

- 13.2.3. If the COUNTY deems any of the foregoing remedies necessary, CONTRACTOR agrees that it shall not be entitled to receive any further payments hereunder until after the project is completed. All monies expended and all of the costs, losses, damages and extra expenses, including all management, administrative and other overhead and other direct and indirect expenses (including attorneys' fees) or damages incurred by the COUNTY incident to such completion, shall be deducted from the Contract Price and if such expenditures exceed the unpaid balance of the Contract Price, CONTRACTOR agrees to pay promptly to COUNTY on demand the full amount of such excess, including costs of collection, attorneys' fees (including appeals) and interest thereon at the maximum legal rate of interest until paid. If the unpaid balance of the Contract amount exceeds all such costs, expenditures and damages incurred by the COUNTY to complete the work, such excess shall be paid to the CONTRACTOR. The amount to be paid to the CONTRACTOR or the COUNTY, as the case may be and this obligation for payment shall survive termination of the Agreement.
- 13.2.4. The liability of CONTRACTOR hereunder shall extend to and include the full amount of any and all sums paid, expenses and losses incurred, damages sustained and obligations assumed by COUNTY in good faith under the belief that such payments or assumptions were necessary or required, in completing the work and providing labor, materials, equipment, supplies and other items therefor or re-letting the work, in settlement, discharge or compromise of any claims, demands, suits and judgments pertaining to or arising out of the work hereunder.
- 13.2.5. If, after Notice of Termination of CONTRACTOR's right to proceed pursuant to this section, it is determined for any reason that CONTRACTOR was not in default, or that its default was excusable, the termination by COUNTY shall be the same as and limited to those afforded CONTRACTOR under ARTICLE 16-Termination for Convenience and Right of Suspension below, Termination for Convenience.

### **13.3. Termination for Convenience and Right of Suspension**

- 13.3.1. The COUNTY shall have the right to terminate this Agreement without cause upon seven (7) calendar day's written notice to CONTRACTOR. In the event of such termination for convenience, CONTRACTOR's recovery against COUNTY shall be limited to that portion of the Contract amount earned through the date of termination, together with any retainage withheld and reasonable termination expenses incurred, but CONTRACTOR shall not be entitled to any other or further recovery against COUNTY, including, but not limited to, damages or any anticipated profit on portions of the work not performed.
- 13.3.2. The COUNTY shall have the right to suspend all or any portions of the work upon giving CONTRACTOR two (2) calendar day's prior written notice of such suspension. If all or any portion of the work is so suspended, CONTRACTOR's sole and exclusive remedy shall be to seek an extension of time to its schedule in accordance with the procedures set forth in the Contract Documents. In no event shall the CONTRACTOR be entitled to any additional compensation or damages. Provided, however, if the ordered suspension exceeds thirty days, the CONTRACTOR shall have the right to terminate the Agreement with respect to that portion of the work that is subject to the ordered suspension.

#### 13.4. Contractor May Stop Work or Terminate

If, through no act or fault of CONTRACTOR, the Work is suspended for a period of more than thirty days by the COUNTY or under an order of court or other public authority, or the COUNTY fails to act on any invoice within forty-five (45) days after it is submitted or the COUNTY fails for ninety (90) days to pay CONTRACTOR any sum finally determined to be due by the COUNTY, then CONTRACTOR may, upon seven (7) days' written notice to the COUNTY and provided the COUNTY does not remedy such suspension or failure within that time, terminate the Agreement and recover from the COUNTY payment on the same terms as provided in Section 13.2 Termination for Default. In lieu of terminating the Agreement and without prejudice to any other right or remedy, CONTRACTOR may upon seven (7) day's written notice to the COUNTY stop the Work until payment of all such amounts due CONTRACTOR, including interest thereon. The provisions of this Section 13.2-Termination for Default are not intended to preclude CONTRACTOR from making claim for an increase in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to CONTRACTOR's stopping Work as permitted by this paragraph.

#### 13.5. Suspension and Debarment

This Agreement is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the CONTRACTOR is required to verify that none of the CONTRACTOR, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

The CONTRACTOR must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

This certification is a material representation of fact relied upon by COUNTY. If it is later determined that the CONTRACTOR did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the Florida Department of Emergency Management and the COUNTY, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

The COUNTRACTOR agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this Agreement is valid. The CONTRACTOR further agrees to include a provision requiring such compliance in its lower tier covered transactions.

### 14. LIQUIDATED DAMAGES

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The CONTRACTOR may be subject to liquidated damages for the following infractions:

- a. Failure to open pre-storm identified DDMS within 24 hours of being tasked by the COUNTY, or post-storm identified DDMS within three (3) calendar days of being tasked by the COUNTY: \$10,000 per day for each day not opened.
- b. Closure of DDMS due to CONTRACTOR equipment or operational failures: \$15,000 per day, for each day site must remain closed.
- c. The COUNTY and CONTRACTOR recognize that the injury to the COUNTY for the CONTRACTOR'S failure to timely complete the above tasks is uncertain and cannot be computed exactly. It is

agreed that the above sums are a reasonable and proper measure of damages which the COUNTY will sustain per day by the failure of the CONTRACTOR to timely complete opening and closing of the DDMS. In no way shall the costs for liquidated damages be construed as a penalty on the CONTRACTOR. The COUNTY may deduct any Liquidated Damages incurred under this section from pending payment applications.

## **15. DAMAGES, INJURIES OR LOSSES**

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- 15.1. CONTRACTOR shall assume full responsibility for any damage, injury or loss to any property within the Project Area, or to the owner or occupant thereof, or to any adjacent land or areas caused, directly or indirectly, in whole or in part, by CONTRACTOR, any Subcontractor, or any other person or organization directly or indirectly employed by any of them to perform or furnish any of the Work or anyone for whose acts any of them may be liable.
- 15.2. Should any claim be made by any such owner or occupant because of the performance of the Work, CONTRACTOR shall promptly make repairs or settle with such other party by negotiation or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law.
- 15.3. Should the COUNTY or CONTRACTOR suffer injury or damage to person or property because of any error, omission or act of the other part or of any of the other party's employees or agents or others for whose acts the other party is legally liable, claim will be made in writing to the other party within a reasonable time of the first observance of such injury or damage. The provisions of this section shall not be construed as a substitute for or a waiver of the provisions of any applicable statute of limitations or repose.
- 15.4. Whenever reference is made to "claims, costs, losses and damages," it shall include in each case, but not be limited to, all fees and charges of engineers, architects, attorneys and other professionals and all court or arbitration or other dispute resolution costs.
- 15.5. The COUNTY will withhold final payment of retainage to the CONTRACTOR until all damage claims are resolved.

## **16. SAFETY AND PRECAUTIONS**

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- 16.1. CONTRACTOR shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. CONTRACTOR shall take all necessary precautions for the safety of and shall provide the necessary protection to prevent damage, injury or loss to:
  - a) all persons who may be affected by the Work;
  - b) all the Work and materials and equipment to be incorporated therein, whether in storage in the Project Area or outside the Project Area; and
  - c) other property in the Project Area or adjacent thereto, including trees, shrubs, lawns, walks, pavements, driveways, roadways, structures, utilities and underground facilities not designated for removal or relocation in the course of the prosecution of the Work.
- 16.2. CONTRACTOR shall comply with all applicable Laws and Regulations of any public body having jurisdiction for safety of persons or property or to protect them from damage, injury of loss; and

shall erect and maintain all necessary safeguards for such safety and protection.

- 16.3. In emergencies affecting the safety or protection of persons or property in the Project Area or adjacent thereto, CONTRACTOR, without special instruction or authorization from the COUNTY, is obligated to act to prevent threatened damage, injury or loss. CONTRACTOR shall give the COUNTY prompt written notice if CONTRACTOR believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby.
- 16.4. If the COUNTY notifies the CONTRACTOR of any hazardous practices with the CONTRACTOR's prosecution of the Work, the CONTRACTOR shall immediately cease those operations associated with the hazardous practice and take necessary remedial action to eliminate or mitigate the hazard to the satisfaction of the COUNTY.
- 16.5. Compliance with the Contract Work Hours and Safety Standards Act.
  - a) Overtime requirements. No CONTRACTOR or subcontractor contracting for any part of the Agreement work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
  - b) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (a) of this section the CONTRACTOR and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such CONTRACTOR and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (a) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (a) of this section.
  - c) Withholding for unpaid wages and liquidated damages. The COUNTY shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the CONTRACTOR or subcontractor under this Agreement or any such related contract or any other Federal contract with the same CONTRACTOR, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same CONTRACTOR, such sums as may be determined to be necessary to satisfy any liabilities of such CONTRACTOR or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b) of this section.
  - d) Subcontracts. The CONTRACTOR or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (a) through (d) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The CONTRACTOR shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (a) through (d) of this section.

## **17. FEMA SUPPORT**

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CONTRACTOR shall provide assistance to the COUNTY in the COUNTY's FEMA reimbursement efforts by:

- a. Maintaining an accounting system in conformance with Federal guidelines and provide such accounting data to the COUNTY; and
- b. Responding to Federal and State agencies' requests for additional information when directed to do so by the COUNTY.

## **18. OTHER WORK**

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- 18.1. The COUNTY may perform other work related to the Project in the Project Area by the COUNTY's own forces or let other direct contracts which shall contain conditions similar to this Agreement.
- 18.2. If the COUNTY contracts with others for the performance of other work on the Project in the Project Area, the following will be provided to the CONTRACTOR in writing:
  - a) the person, firm or corporation who will have authority and responsibility for coordination of the activities among the various contractors will be identified;
  - b) the specific matters to be covered by such authority and responsibility will be itemized; and
  - c) the extent of such authority and responsibilities will be provided.
- 18.3. The COUNTY shall have sole authority and responsibility in respect of such coordination.

## **19. COUNTY'S RESPONSIBILITIES AND STATUS DURING PROSECUTION OF THE WORK**

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- 19.1. The COUNTY may engage the services of a DRMC to assist the COUNTY ensure the CONTRACTOR performs the Work according the Contract Documents and all applicable federal, state and local regulations.
- 19.2. Except as otherwise provided in this Agreement, the COUNTY shall issue all communications to CONTRACTOR.
- 19.3. The COUNTY will determine the boundaries of the Site, direct the sequence for debris removal services by Work Zone, and approve the location of DDMS and landfills prior to use of such sites for debris processing or disposal as detailed in the **Scope of Work, Exhibit A**.
- 19.4. The COUNTY will make visits to the Site at intervals appropriate to the various stages of Work as COUNTY deems necessary in order to observe the progress that has been made and the quality of the various aspects of CONTRACTOR's executed Work. Based on information obtained during such visits and observations, the COUNTY will endeavor to determine, in general, if the Work is proceeding in accordance with the Contract Documents. COUNTY's efforts will be directed toward providing a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and on-site observations, the COUNTY will keep informed of the progress of the Work and will endeavor to guard against Defective Work.

- 19.5. The COUNTY will have authority to disapprove or reject Work that the COUNTY believes to be Defective, or that the COUNTY believes does not conform to the Contract Documents. The COUNTY will also have authority to require special inspection or testing of the Work whether or not the Work is fabricated, installed or completed to determine whether the Work is Defective.
- 19.6. Neither the COUNTY's authority or responsibility under this section or under any other provision of the Contract Documents nor any decision made by the COUNTY in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise or performance of any authority or responsibility by the COUNTY shall create, impose or give rise to any duty owed by the COUNTY to CONTRACTOR, any Subcontractor and Supplier, any other person or organization, or to any surety for or employee or agent of any of them.
- 19.7. The COUNTY will not supervise, direct, control or have authority over or be responsible for CONTRACTOR's means, methods, techniques, or procedures, or the safety precautions and programs incident thereto, or for any failure of CONTRACTOR to comply with Laws and Regulations applicable to the furnishing or performance of the Work, except as specifically stated in **Scope of Work Exhibit A**. COUNTY will not be responsible for CONTRACTOR's failure to perform or furnish the Work in accordance with the Contract Documents.
- 19.8. The COUNTY will not be responsible for the acts or omissions of CONTRACTOR or of any Subcontractor, any Supplier, or of any other person or organization performing or furnishing any of the Work.
- 19.9. The COUNTY's review of the CONTRACTOR'S invoices and accompanying documentation will only be to determine generally that their content complies with the requirements of the Contract Documents.
- 19.10. The limitations upon authority and responsibility set forth herein shall also apply to the COUNTY's DRMC.

## **20. PERMITS, FEES, and LICENSES**

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- 20.1. Unless otherwise provided, CONTRACTOR shall obtain and pay for all permits and licenses that are necessary and incidental to the prosecution of the Work. The COUNTY shall assist CONTRACTOR, when necessary, in obtaining such permits and licenses. CONTRACTOR shall pay all governmental charges and inspection fees necessary for the prosecution of the Work.
- 20.2. Prior to operation of any DDMS, CONTRACTOR will comply with all applicable permitting requirements and provide the COUNTY with copies of such permits.

## **21. LAWS AND REGULATIONS**

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- 21.1. CONTRACTOR agrees to comply with all applicable federal, state and local laws, rules and regulations during the course of this Agreement. The Consultant is responsible for full and complete compliance with all laws, rules and regulations including those for the Federal Government, State of Florida and applicable local ordinances. Failure or inability on the part of the CONTRACTOR to have complete knowledge and intent to comply with such law, rules and regulations shall not relieve CONTRACTOR from its obligation to completely perform any task assigned pursuant to this Agreement.

- 21.2. If CONTRACTOR performs any Work knowing or having reason to know that it is contrary to Laws or Regulations, CONTRACTOR shall bear all claims, costs, losses and damages caused by, arising out of or resulting therefrom.
- 21.3. Equal Employment Opportunity. During the performance of this Agreement, the CONTRACTOR agrees as follows:
- a) The CONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
  - b) The CONTRACTOR will, in all solicitations or advertisements for employees placed by or on behalf of the CONTRACTOR, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
  - c) The CONTRACTOR will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the CONTRACTOR'S commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
  - d) The CONTRACTOR will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
  - e) The CONTRACTOR will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
  - f) In the event of the CONTRACTOR'S noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
  - g) The CONTRACTOR will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section

204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States.

21.4. Federal Environmental Regulations. During the performance of this Agreement, the CONTRACTOR agrees as follows:

- a) The CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq. and all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
- b) The CONTRACTOR agrees to report each violation to the COUNTY and understands and agrees that the COUNTY will, in turn, report each violation as required to assure notification to the COUNTY, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- c) The CONTRACTOR agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

21.5. Fraud and False or Fraudulent or Related Acts: The CONTRACTOR acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the CONTRACTOR'S actions pertaining to this Agreement."

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

## **22. ASSIGNMENT**

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22.1. No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, monies that may become due and monies that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law) and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

22.2. The COUNTY and CONTRACTOR each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal

representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.

### **23. INDEPENDENT CONTRACTOR**

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The CONTRACTOR is, and shall be, in the performance of all Work, services and activities under this Agreement, an Independent Contractor, and not an employee, agent, or servant of the COUNTY. No statement contained in this Agreement shall be construed so as to define CONTRACTOR as an employee of the COUNTY and CONTRACTOR shall be entitled to none of the rights, privileges or benefits of Brevard County employees.

### **24. ENTIRE AGREEMENT**

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The Contract Documents comprise the entire agreement between the COUNTY and CONTRACTOR concerning the Work. The Contract Documents are complementary: what is called for by one is as binding as if called for by all. The Contract Documents will be construed in accordance with the law of Florida.

### **25. RIGHT TO AUDIT:**

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In the performance of this Agreement, the CONTRACTOR shall keep books, records, and accounts of all activities, related to the agreement, in compliance with generally accepted accounting procedures. Books, records and accounts related to the performance of this agreement shall be open to inspection during regular business hours by an authorized representative of Brevard County and shall be retained by the vendor for a period of five years after termination of this agreement. All records, books 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.

**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) 633-2090, Brittany Wright, Brevard County Attorney's Office, 2725 Judge Fran Jamieson Way, Bldg. C, Viera FL 32940) .**

### **26. TAXES**

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CONTRACTOR shall pay all sales, consumer, use and other similar taxes required to be paid by CONTRACTOR in accordance with the Laws and Regulations of the place of the Project which are applicable during the performance of the Work.

### **27. ATTORNEY'S FEES**

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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, and any trial shall be non-jury.

## **28. VENUE**

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Venue for any legal 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.

## **29. UNAUTHORIZED ALIEN WORKERS**

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The OWNER 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 274A (e) of the Immigration and Nationality Act "INA"). The OWNER shall consider violations by the Recipient of the Employment provisions contained in Section 274(e) of the INA as grounds for unilateral cancellation of this Agreement by the OWNER.

## **30. PUBLIC ENTITY CRIMES**

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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 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 threshold amount provided in Section 287.017 Florida Statutes for CATEGORY TWO for a period of 36 months from date of being placed on convicted vendor list.

## **31. UNAUTHORIZED ALIEN WORKERS**

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Brevard 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 274A(e) of the Immigration and Nationality Act "INA"). The County shall consider a contractors intentional employment of unauthorized aliens as grounds for immediate termination of this Agreement.

## **32. SCRUTINIZED COMPANIES**

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Section 287.135, Florida Statutes, prohibits agencies from contracting with companies for goods or services of \$1,000,000 or more, that are on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. A 'scrutinized company' is one that is on the "Boycott Israel List"; is on the scrutinized companies with activities in the Iran Petroleum Energy Sector List; scrutinized companies with Activities in the Sudan List or engaged in business operations in Cuba or Syria. Both lists are created pursuant to Section 215.473, Florida Statutes.

## **33. FEDERAL TAX ID NUMBER**

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The CONTRACTOR shall provide to the COUNTY their Federal Tax ID Number or, if the CONTRACTOR is a sole proprietor, a Social Security Number.

#### **34. SEVERABILITY**

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If any of the provisions contained in this Agreement are held for any reason to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision, and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

#### **35. PURCHASING AGREEMENTS WITH OTHER GOVERNMENT ENTITIES**

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The COUNTY permits the CONTRACTOR to extend the pricing, terms and conditions of this solicitation to other governmental entities at the CONTRACTOR'S discretion. Each governmental entity that utilizes this solicitation or Agreement will be responsible for execution of its own requirements with the CONTRACTOR.

#### **36. PUBLIC RECORDS**

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- 36.1. CONTRACTOR shall comply with Florida Public Records law under Chapter 119, F.S. Records made or received in conjunction with this Agreement are public records under Florida law, as defined in Section 119.011(12), F.S. CONTRACTOR shall keep and maintain public records required by the COUNTY to perform the services under this Agreement.
- 36.2. This Agreement may be unilaterally canceled by the COUNTY for refusal by the CONTRACTOR to either provide to the COUNTY upon request, or to allow inspection and copying of all public records made or received by the CONTRACTOR in conjunction with this Agreement and subject to disclosure under Chapter 119, F.S., and Section 24(a), Article I, Florida Constitution.
- 36.3. If the records provided by the CONTRACTOR do not fall under a specific exemption, under Florida or federal law, materials provided by the CONTRACTOR to the COUNTY would have to be provided to anyone making a public records request. It will be the CONTRACTOR'S duty to identify the information, which it deems is exempt under Florida/federal law, and identify the statute by number, which exempts that information.
- 36.4. Should any person or entity make a public request of the COUNTY which requires or would require the COUNTY to allow inspection or provide copies of records which the CONTRACTOR maintains are exempt from Public Records Law or are confidential, it shall be the CONTRACTOR'S obligation to provide the COUNTY within 24 hours (not including weekends and legal holidays), of notification by the COUNTY to the CONTRACTOR of the request, of the specific exemption or confidentiality provision so the COUNTY will be able to comply with the requirements of Fla. Stat. 119.07(1)(e) and (f).
- 36.5. Should the COUNTY face any kind of legal action to require or enforce inspection or production of any records provided by the CONTRACTOR to the COUNTY, including the production of records which the CONTRACTOR maintains are exempt or confidential from such inspection/production as a public record, then the CONTRACTOR shall hire and compensate attorney(s) who shall represent the interest of the COUNTY in defending such action. The CONTRACTOR shall also pay any costs to defend such action and shall pay any costs and attorneys' fees, which may be awarded pursuant to Fla. Stat. 119.12.

36.6. Upon completion of the Agreement, CONTRACTOR shall transfer, at no cost to COUNTY, all public records in possession of CONTRACTOR or keep and maintain public records required by the COUNTY to perform the services under this Agreement. If the CONTRACTOR transfers all public records to the COUNTY upon completion of the Agreement, the CONTRACTOR shall destroy any duplicate public records that are exempt or confidential and exempt from public disclosure requirements. If the CONTRACTOR keeps and maintains public records upon completion of the Agreement, the CONTRACTOR shall meet all applicable requirements for retaining public records. All records that are stored electronically must be provided to COUNTY, upon request from the COUNTY'S custodian of public records, in a format that is accessible by and compatible with the information technology systems of the COUNTY.

### **37. ACCESS TO RECORDS**

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37.1. The CONTRACTOR agrees to provide COUNTY, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the CONTRACTOR which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

37.2. The CONTRACTOR agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

37.3. The CONTRACTOR agrees to provide the FEMA Administrator or authorized representatives access to construction or other work sites pertaining to the work being completed under the Agreement.

### **38. COUNTY SEAL**

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Use of the County Seal without the express approval of the Board of County Commissioners is a violation of section 165.043 Florida Statutes punishable as a misdemeanor.

### **39. DEPARTMENT OF HOMELAND SECURITY (DHS) SEAL, LOGO, AND FLAGS**

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The CONTRACTOR shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA preapproval.

### **40. FEMA ASSISTANCE**

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This is an acknowledgement that FEMA financial assistance will be used to fund a portion of this Agreement. The CONTRACTOR will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.

### **41. NO OBLIGATION BY FEDERAL GOVERNMENT**

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The Federal Government is not a party to this Agreement and is not subject to any obligations or liabilities to the COUNTY, CONTRACTOR, or any other party pertaining to any matter resulting from this Agreement.

### **42. SURVIVAL OF OBLIGATIONS**

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All representations, indemnifications, warranties and guarantees made in, required by or given in accordance with the Contract Documents, as well as all continuing obligations indicated in the Contract Documents, will

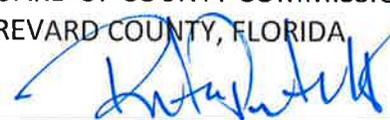
survive Final Payment, completion and acceptance of the Work and termination or completion of the Agreement. IN WITNESS WHEREOF, the COUNTY and CONTRACTOR have caused duplicate originals of this Agreement to be executed by its duly authorized representatives.

ATTEST:



Scott Ellis, Clerk

BOARD OF COUNTY COMMISSIONERS OF  
BREVARD COUNTY, FLORIDA



Rita Pritchett, Chair

Date \_\_\_\_\_

As approved by the Board on September 19, 2017

Reviewed for legal form and content:



Christine Valliere, Assistant County Attorney

ATTEST:

AshBritt, Incorporated

Contractor

\_\_\_\_\_  
Brittany Perkins, Chief Operating Officer

(Corporate Seal)

Address: 565 East Hillsboro Boulevard  
Deerfield Beach, FL 33441

I hereby certify that \_\_\_\_\_ personally appeared before me and executed the foregoing instrument as the \_\_\_\_\_ of \_\_\_\_\_ on behalf of said corporation. Witness my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_ 2018.

NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_

**EXHIBIT A**  
**SCOPE OF WORK**  
**DISASTER DEBRIS COLLECTION, REDUCTION AND DISPOSAL SERVICES**

**A. BACKGROUND:**

Brevard County is located along the east coast of Central Florida and has a land area of 1,016 square miles, stretching 72 mile long and approximately 30 miles wide. The County is bordered by the Atlantic Ocean and by Volusia, Orange, Osceola, and Indian River counties and has a population of approximately 582,500 residents. The Brevard County Board of County Commissioners' (COUNTY) disaster recovery planning includes considerations for removing and processing the volumes and types of debris expected to be generated by a major disaster such as a hurricane, tornado or severe flooding and the procedures for disposing of that debris. The planning approach is formulated in part on the concept of strategic pre-positioning of plans and resources necessary for timely, coordinated recovery operations, using a combination of county, municipal, and contracted forces.

In the event of a disaster which generates over 100,000 cubic yards of debris, COUNTY envisions the need for multiple Agreements to carry out the debris collection, processing and disposal work throughout Brevard County. If activation of the COUNTY's disaster recovery plan is required, the COUNTY intends to activate Agreements on an as-needed basis as solely determined by the COUNTY. The COUNTY intends to activate Disaster Recovery Contractors (CONTRACTORS) in the order of final ranking as best meets the needs of the COUNTY. The COUNTY reserves the sole right to assign/reassign any or all CONTRACTORS at any time as may be deemed appropriate depending upon the circumstance(s), the event, or any other condition which may warrant such action.

CONTRACTOR selected by the County shall support Brevard County (COUNTY) and participating municipalities in the collection and processing of debris resulting from, but not limited to, catastrophic events such as tornadoes, hurricanes and floods. The Scope of Work on an Agreement resulting from this solicitation will generally include:

- a. Debris removal operations from residential public and private streets, roads and right-of-ways, public properties and facilities and delivery of debris to Temporary Disaster Debris Management Sites (DDMS) or authorized landfills;
- b. Set up and operation of DDMS, including daily operations and reclamation of the sites to pre-storm condition or as directed by the COUNTY; and
- c. Processing, loading and hauling material from DDMS to final destination for disposal or beneficial use.

The COUNTY does not guarantee a CONTRACTOR will be activated if awarded an Agreement. The Agreement will be a contingency Agreement that will be activated through a Notice to Proceed (NTP) only in the face of an emergency. As such, no compensation will accrue to the CONTRACTOR unless and until the Agreement is activated either in anticipation of a natural disaster or immediately after such disaster.

The COUNTY'S goal is to complete the debris removal and disposal process from a major natural disaster in no more than 120 days. This assumes that the entire area of the county will be accessible within that period. Due to the low elevation and potential for flooding, some areas might not be accessible for several weeks after a major natural disaster. The CONTRACTOR must be aware that it might not be possible to initiate operations in all parts of the county simultaneously immediately after a storm. The tasks and responsibilities described in this Scope of Work Exhibit A are in addition to those listed in the Agreement.

## **B. PROJECT MANAGEMENT:**

### **COUNTY Contract Administration**

The COUNTY's Solid Waste Management Department Director (DIRECTOR) or designee will direct the disaster debris removal and disposal operations under any Agreement resulting from this Disaster Debris Collection, Reduction and Disposal solicitation.

1. At the COUNTY's direction the CONTRACTOR may be required to be under the direction of the COUNTY's Disaster Recovery Management Consultant (DRMC).

### **CONTRACTOR's Management Responsibilities**

2. The CONTRACTOR, in responding to this solicitation, confirms it has an established management team and established network of resources to provide the necessary equipment and personnel, comprehensive debris removal and volume reduction operations plans, and demonstrable experience in major disaster recovery projects to efficiently remove large volumes of disaster-generated debris from a large area in a timely and cost-effective manner and lawfully disposing of all debris.
3. The CONTRACTOR submits he/she has the experience and capability to manage a major workforce with multiple subcontractors and to cover the expenses associated with a major recovery operation prior to the initial COUNTY payment and between subsequent payments, as well as the capacity to provide the necessary bonds and insurance.
4. Before undertaking each part of the Work, CONTRACTOR shall carefully study and compare the Contract Documents. CONTRACTOR shall promptly report in writing to the COUNTY any conflict, error, ambiguity or discrepancy which CONTRACTOR may discover and shall obtain a written interpretation or clarification from the COUNTY before proceeding with any Work affected.
5. The CONTRACTOR must be duly licensed to perform the Work in accordance with the State of Florida statutory requirements. The CONTRACTOR shall obtain all permits and licenses necessary to complete the work. The CONTRACTOR shall be responsible for determining what permits and licenses are necessary to perform under the Agreement. Copies of all permits shall be submitted to the DIRECTOR prior to beginning work.
6. The CONTRACTOR shall perform all work in accordance with the Federal Emergency Management Administration (FEMA) guidelines in order to maximize recovery of reimbursable expenses by the COUNTY. This task shall include the provision of audit quality documentation as required by and acceptable to FEMA for all work accomplished. If requested by the COUNTY, the CONTRACTOR shall accompany and assist the COUNTY in assessing and preparing initial estimates of debris volume and damage assessment reports for submittal to FEMA and/or Florida Division of Emergency Management (FDEM).
7. Each CONTRACTOR will serve as a General Contractor for the purpose of debris removal and disposal operations, and will be able to use his/her own and subcontractor resources to meet the obligations of the Agreement. It is anticipated that the CONTRACTOR will use both local and non-local subcontractors. Notwithstanding, the CONTRACTOR will make every effort to use Small Business Enterprises (SBE), to the maximum extent practicable.
8. The CONTRACTOR shall assign a Project Manager (PM) to the COUNTY to serve as the principal liaison between the DIRECTOR or designee and the CONTRACTOR'S forces. The assigned PM must be knowledgeable of all facets of the CONTRACTOR'S operations and have authority in writing to commit the CONTRACTOR.
9. The PM shall be on call 24 hours per day, seven (7) days per week and shall have electronic linkage capability for transmitting and receiving relevant contractual information and shall make arrangements for onsite accommodations.  
This linkage shall provide immediate contact via cell phone, Fax machine, and have Internet capabilities.

10. The PM will report to the DIRECTOR or designee. This position will not require constant presence; rather the PM will be required to be physically capable of responding to the DIRECTOR within one hour of notification. The PM will participate in daily meetings, functioning as a source to provide essential information regarding the status of operations. The PM shall provide up to date information to COUNTY's Public Information Officer (PIO) for public announcements concerning debris collection schedules, project details, safety requirements, and other information necessary for proper conduct of operations.
11. The PM shall be responsible for acquiring, supervising and directing the Work, using skilled labor and proper equipment for all tasks.

### **Notice to Proceed**

12. Specific work authorization by the COUNTY will be through a written Notice to Proceed (NTP) which will define the Project Area boundaries, Work Zones and the work to be accomplished. The NTP may be amended in writing as needed to accomplish the goal of efficient debris collection and removal.

### **Work Plan**

13. The CONTRACTOR will develop a Work Plan for acceptance by the COUNTY prior to the commencement of the Work. The Work plan must describe the CONTRACTOR's proposed means, methods, and sequencing of the Work outlined in this Scope of Work and shall include, at a minimum:
  - a. CONTRACTOR's key staff, their responsibilities, means of communicating with the key staff including their cellular phone and email addresses. These personnel shall be sufficiently familiar and experienced with the CONTRACTOR's personnel, equipment, and methods of operation to make key and timely decisions so that the debris removal operation proceeds in an efficient, well-coordinated manner.
  - b. CONTRACTOR's Project Manager and substitute personnel who will be authorized to act on its behalf
  - c. CONTRACTOR's subcontractors and the areas of the Work that each subcontractor will execute,
  - d. CONTRACTOR's personnel responsible for resolving all claims of damage including all contact information, a list of the equipment that will be used for the Project,
  - e. a description of procedures that will be followed by the CONTRACTOR to document all Work efforts,
  - f. a proposed progress schedule indicating the number of days for execution and completion of all areas of Work
  - g. a traffic control plan
  - h. a list of any items or decisions that are needed by the CONTRACTOR from the COUNTY to complete the Work in accordance with the requirements of the Contract Documents.
14. CONTRACTOR cannot amend or modify the Work Plan nor commence with any modifications to the Work without the prior acceptance of the proposed amendments by the COUNTY.

## **C. DEBRIS COLLECTION AND DISPOSAL OPERATIONS**

### **General:**

1. CONTRACTOR will be responsible for debris collection, removal and disposal from the Project Area. The Project Area will be subdivided into Work Zones to aid in the scheduling of debris collection and removal efforts. The COUNTY will prescribe the specific schedule for debris removal to be used after ascertaining the scope and nature of the disaster's impacts in consultation with the DRMC and CONTRACTOR. The general concept of debris removal operations includes multiple, scheduled passes of each Work Zone.

2. The debris removal and disposal work shall consist of clearing and removing disaster generated debris as directed by the DIRECTOR and may include:
  - First pass to clear debris from emergency evacuation routes, access roads to critical facilities and all primary roadways.
  - Clearing debris from residential private and public road right of ways and public properties.
  - Loading the debris from roads and right-of-ways.
  - Hauling the debris to an approved DDMS or an authorized landfill
  - Offloading the debris at the DDMS or at an authorized landfill.
3. The COUNTY intends to provide emergency road clearing using its own forces. However, in a significant disaster these resources may be insufficient to perform the clearance activities in a timely manner. Therefore, from 0-72 hours following such a disaster, the CONTRACTOR, as directed by the COUNTY, may be tasked with assisting COUNTY with emergency road clearing services.
4. Emergency road clearing service is to be considered a supplemental and optional service. It is anticipated that debris clearance activities, if needed, would be paid on an hourly basis for equipment and labor. These services may include:
  - a. Clear debris from emergency evacuation routes, access roads to critical facilities, and primary roadways.
  - b. Perform emergency removal of debris if needed for life-saving measures.
5. For emergency road clearing, the CONTRACTOR shall "cut and toss" debris to road shoulders. "Cut and toss" is defined as "the minimum actions necessary to clear the road, within the roadway boundary, for use by emergency crews". CONTRACTOR shall minimize damage to the road shoulder, curb and gutter, and sidewalks. CONTRACTOR shall avoid and minimize placing materials in adjacent ditches or drainage structures.
6. Prior to the commencement of any emergency clearance work, the COUNTY shall identify the sequencing for clearance work and the CONTRACTOR shall provide a schedule for the execution and completion of all such Work for acceptance by the COUNTY.
7. Unless otherwise directed by the COUNTY, eligible debris removal will generally be limited to vegetative debris and construction and demolition debris in, upon, or brought to county or participating municipality residential streets and roads, right-of-ways, public properties and facilities (this includes debris from customers assessed for residential solid waste collection services by the COUNTY).
8. The CONTRACTOR will be responsible for determining the method and manner of debris removal and lawful disposal operations, consistent with the County's Debris Management Plan. Disposal of debris will be at a DDMS, permitted landfill, or other waste management site approved by the COUNTY. The CONTRACTOR will be responsible for the lawful disposal of all debris and debris-reduction by-products generated at all DDMS.
9. The CONTRACTOR shall not solicit work from private citizens or others to be performed in the designated Project Area during the period of this Agreement. Under no circumstance will the CONTRACTOR mix debris hauled for others with debris hauled under this Agreement. Failure to comply will result in no payment to CONTRACTOR and operator and vehicle will be declared ineligible to provide any additional emergency debris collection services.
10. The COUNTY will conduct daily meetings with CONTRACTOR and other officials to update progress of Work and discuss issues.

**Mobilization:**

11. When a major disaster occurs or is imminent, the COUNTY will contact the CONTRACTOR to advise them of the

COUNTY'S intent to activate the Agreement(s). This will serve to activate the lines of communication between the CONTRACTOR representatives and the COUNTY.

12. The COUNTY will issue a Notice to Proceed (NTP) which will authorize the CONTRACTOR to send a Project Manager to the COUNTY within 24 hours of receiving such notice to meet with the DIRECTOR and begin planning for the operations and mobilizing the personnel and equipment as necessary to perform the stipulated work. This NTP will also direct the CONTRACTOR to execute the required Performance and Payment Bond. The CONTRACTOR should anticipate receiving this NTP 24 to 72 hours after landfall of hurricane. The CONTRACTOR shall commence mobilization immediately upon receipt of the NTP and shall meet the following minimum progress patterns:
  - a. Within 24 hours of NTP: CONTRACTOR will establish an operations center (Center) in the COUNTY to maintain continuous communications with all of the CONTRACTOR's ancillary sites and facilities, work crews, other key response and recovery groups involved in the Project, and COUNTY personnel, and if directed, the COUNTY'S Disaster Recovery Management Contractor (DRMC).
  - b. Within 48 hours: CONTRACTOR shall begin collection activity within assigned Work Zone(s).
  - c. Within ten (10) calendar days: CONTRACTOR shall provide equipment sufficient to collect a minimum of 10,000 cubic yards of debris per day. (Past COUNTY natural disaster cleanup records show that ten (10) days following disaster, 10,000-12,000 cubic yards of debris was collected per day). Failure to provide sufficient equipment and labor necessary to collect required amount may result in the COUNTY entering into a separate Agreement with another contractor for collection services.

**Hours of Operation:**

13. The CONTRACTOR is authorized to collect debris during daylight hours (sunrise to sunset), seven (7) days per week.
14. Any deviations from the schedule will require COUNTY approval.

**Equipment and Vehicle Certifications:**

15. All trucks and equipment used to perform Work must be in compliance with all applicable federal, state, and local rules and regulations.
16. The COUNTY or DRMC shall complete truck certifications indicating the type of vehicle, make and model, license plate number, equipment number, and measured maximum volume, in cubic yards, of the load bed of each piece of equipment utilized to haul debris in accordance with FEMA guidelines. The measured volume of each piece of equipment shall be calculated from actual internal physical measurement performed and certified by the COUNTY or DRMC. Each operator shall keep COUNTY certification with them at all times. The COUNTY reserves the right to re-measure trucks and trailers at any time to verify reported capacity. If a truck and/or trailer are re-measured and the yardage capacity is determined to be lower, the lower yardage volume will be retroactive to the initial load and total volume adjusted accordingly.
17. Prior to commencing operations, the COUNTY or DRMC shall affix to each piece of equipment, placards or signs indicating the CONTRACTOR's name, Owner/Operator's name and a unique equipment identification number. One sign shall be placed on each side of the equipment. For those trucks, trailers and other equipment intended to haul debris, the maximum volume, in cubic yards, of the load bed shall also be shown. The maximum volume of any load bed shown on the placards affixed to each piece of equipment shall be the same as the reported maximum measured volume on the truck certification.
18. Any and all unapproved changes to placard will result in no payment to CONTRACTOR and operator and vehicle will be

declared ineligible to perform any additional emergency debris collection services.

19. There shall be no hand loaded equipment allowed.
20. All trucks and trailers utilized in hauling debris shall be equipped with a tailgate that will effectively contain the debris during transport and that will permit the trucks to be filled to capacity. If installed, all sideboard extensions must remain in place throughout the operation, or the vehicle must be re-measured and remarked. All extensions to the bed are subject to acceptance or rejection by the COUNTY Inspector.
21. Trucks used to haul debris must be capable of rapidly dumping their load without the assistance of other equipment.

#### **Segregation of Waste:**

22. Curbside segregation of debris and disaster-generated or related wastes is an element of the COUNTY'S disaster recovery program. The CONTRACTOR will be required to aid in the segregation and waste stream management processes.
23. Putrescible residential garbage, white goods, and furniture will be collected by COUNTY's franchise waste hauler and are not considered eligible debris and are not to be collected or transported by CONTRACTOR forces, unless expressly authorized by the COUNTY. If authorized, putrescible garbage must be delivered to the COUNTY's Central Disposal Facility or one of the COUNTY's Transfer Stations. White goods and furniture may be delivered to a DDMS or landfill if approved by the COUNTY.

#### **Vegetation and Construction and Demolition Debris**

24. It is the COUNTY's goal to ensure that vegetation and construction/demolition debris remain separate. Mixing of loads by the CONTRACTOR at the road right of way will not be permitted unless expressly authorized by the COUNTY.
25. Any waste, other than vegetation or construction and demolition debris, i.e. household hazardous waste (HHW), hazardous waste, biohazardous waste, dead animals, etc. encountered by the CONTRACTOR is to be set aside and not collected unless specifically authorized by the COUNTY.

#### **Hazardous Waste and Biohazardous Waste**

26. Typically HHW, hazardous waste and biohazardous waste disposal shall be the responsibility of the generator. However, if determined by the COUNTY to be necessary to protect the public health and safety, the COUNTY may authorize the CONTRACTOR to collect these wastes and transport them to a designated site for temporary storage prior to disposal. The CONTRACTOR shall provide copies of all hazardous waste and biohazardous waste licenses, certification and permits necessary for handling such wastes prior to undertaking this work.
27. The CONTRACTOR shall identify locations in the public right of way with suspected HHW, hazardous or biohazardous waste, secure the sites by placing stakes and flagging tape around the area where these waste has been identified, notify the COUNTY and obtain authorization from the COUNTY to remove such waste.
28. The CONTRACTOR shall transport hazardous waste to one of the COUNTY's Household Hazardous Waste Collection Centers located at the Central Disposal Facility in Cocoa, the Sarno Road Landfill in Melbourne, the Mockingbird Way Mulching Facility in Titusville, or another facility designated by the COUNTY.
29. CONTRACTOR is strictly prohibited from bringing any hazardous or biohazardous wastes to any temporary debris-processing site or solid waste disposal facility.

#### **Dead Animals**

30. The CONTRACTOR shall collect and transport dead animals to the COUNTY's Central Disposal Facility in Cocoa only as directed by the COUNTY.
31. CONTRACTOR will not be responsible for disposal fees associated with these dead animals.

#### **Sand/Sediments**

32. The CONTRACTOR is responsible for collecting debris-laden white beach sand and other sediments from rights-of-way and roadways only as directed by the COUNTY and transporting the debris-laden sand to a DDMS.
33. CONTRACTOR shall screen sand using equipment designed with a heavy-duty grid and screens to filter and remove all debris larger than ¼ inch in diameter.
34. CONTRACTOR shall stockpile and segregate all screened white beach sand at the DDMS and stabilize, maintain and protect such sand stockpiles from contamination until the clean sand material is removed by the COUNTY. The CONTRACTOR is also responsible for ensuring that sand is not removed from the stockpiles by wind erosion, water erosion, or other means.
35. At the direction of the COUNTY, the CONTRACTOR shall remove other sediments (e.g. sand, gravel, clay, and other materials not suitable for return to the beaches) from rights-of-way, roadways, and public property. The CONTRACTOR will haul these materials to spoil areas designated by the COUNTY.

#### **Collection of Debris:**

36. The CONTRACTOR shall conduct the Work so as not to interfere with the disaster response and recovery activities of federal, state or local governments or agencies, or of any public utilities or other private contractors.
37. The CONTRACTOR shall remove vegetative and construction and demolition debris from public property and public right-of-ways within the Project Area located in unincorporated Brevard County, Florida, and participating municipalities to temporary DDMS or authorized landfill as designated by the DIRECTOR.

#### **Private Property**

38. CONTRACTOR will not proceed onto or collect debris from private property unless directed to do so by the COUNTY.
39. Should the COUNTY deem a disaster event to be of such magnitude that pick-up on the public right-of-way is not practical or sufficient to eliminate immediate threats to public health and safety, the CONTRACTOR may be directed by the COUNTY to collect debris from private property.
40. CONTRACTOR will assist the COUNTY in obtaining rights-of-entry, hold harmless consents, and insurance information from property owners prior to entry onto private property.
41. When directed by the COUNTY, the CONTRACTOR will load and haul destroyed vehicles to a holding area designated by the COUNTY. Once delivered, final resolution will be negotiated between the COUNTY and respective insurance companies.

#### **Work Zones**

42. The CONTRACTOR shall not begin collection of debris within a Work Zone without a COUNTY or DRMC loading site monitor present.
43. The CONTRACTOR shall not move from one designated Work Zone to another without prior approval from the DIRECTOR or designee. CONTRACTORS and/or subcontractors that move to a Work Zone without prior COUNTY

approval may be terminated immediately.

44. The COUNTY reserves the right to relocate CONTRACTOR to another Project Area based on need and ability to perform required work at an acceptable level. The COUNTY reserves the right to immediately terminate CONTRACTOR and any subcontractor who fails to provide service in accordance to guidelines set forth by FEMA and the COUNTY.
45. The CONTRACTOR's drivers will be given electronic or paper load tickets at the loading site by the COUNTY's or DRMC's loading site monitor for each load delivered to the DDMS. Debris hauled to a DDMS will require a valid load ticket.

### **Securing Debris**

46. The CONTRACTOR shall be responsible for properly and adequately securing debris on each piece of equipment utilized to haul debris. Prior to leaving the loading site, the CONTRACTOR shall ensure that each load is secure and trimmed so that no debris extends horizontally beyond the bed of the equipment in any direction. All loose debris shall be reasonably compacted during loading and secured during transport.
47. Tarps or other coverings shall be provided by the CONTRACTOR to prevent materials from falling or being blown from the bed. Loads not properly tarped or otherwise covered will not be allowed to dispose at any COUNTY approved DDMS which may result in non-payment to CONTRACTOR.
48. Cyclone fence may be used as temporary tailgates if they comply with the following specifications, however, truck may incur an automatic capacity deduction per FEMA guidelines:
  - Fencing must be permanently attached to one side of the truck bed.
  - After loading, the fencing must be tied to the other side of the truck bed at two places with heavy gauge wire.
  - Fencing must extend to the bottom of the bed.
  - After loading, bottom of fencing shall be tight against the bed of the truck and secured at a minimum of two locations.
  - Solid iron metal bars must be secured to both sides of the fencing.

### **Safety and Maintenance and Protection of Traffic:**

49. Safety of the CONTRACTOR'S personnel and equipment is the responsibility of the CONTRACTOR.
50. The CONTRACTOR shall develop a traffic control plan along potential haul routes and at debris management and disposal sites. The plan shall be approved by the DIRECTOR.
51. The CONTRACTOR shall be responsible for control of pedestrian and vehicular traffic in the Project Area as necessary.
52. All streets and travel ways shall remain open to the passage of vehicular and pedestrian traffic during the prosecution of the Work, unless prior written consent is obtained from the COUNTY and the governing body having jurisdiction over the street or travel way.
53. In order to maintain effective traffic control and warn of hazards, CONTRACTOR shall provide all necessary signs, signals, barricades, flares, lights, other devices, and personnel and be responsible for the maintenance of all such devices. The CONTRACTOR shall ensure that all equipment is in place and in good condition.
54. Maintenance and protection of traffic shall be provided in accordance with the Manual of Uniform Traffic Control Devices (MUTCD) and any provisions contained in the plans or the contract documents in areas affected by the Contractor's operations.

55. The correct sequence and spacing of signs, either permanent or temporary must be maintained at all times in accordance with MUTCD. All signs, including guide signs, shall indicate actual conditions at all times. The traffic maintenance schemes shown in the MUTCD describe the minimum methods and control devices necessary. The COUNTY may order additional devices, the immediate covering, movement, removal, or change of any device, and/or may order additional methods to meet field conditions.
56. CONTRACTOR shall provide and maintain safe and adequate ingress and egress to and from intersecting highways, homes and commercial establishments to the satisfaction of the COUNTY.
57. When crossings, obstructions, or the temporary closures of streets or travel ways are required, the CONTRACTOR shall provide and maintain suitable bridges, detours or other temporary measures, all of which must be to the satisfaction of the County, for the accommodation of traffic.
58. Unless otherwise agreed to or specified, the CONTRACTOR will provide the COUNTY and any affected party a minimum of 48 hours advance notice of any operations that will impact police, fire, and other emergency response operations.
59. Unless otherwise agreed to or specified, the CONTRACTOR will provide the COUNTY and any affected party a minimum of 24 hours advance notice of any operations that will impact owners and tenants of private properties for a period of two or more hours.
60. The CONTRACTOR shall remove temporary equipment and facilities when no longer required, and restore area to original or specified conditions upon removal.
61. The duration of the operation shall be for the minimum time practical. Traffic shall be restored as soon as the street or travel way is safely passable.

#### **Parking Control**

62. CONTRACTOR shall control all CONTRACTOR related vehicular parking so as to not interfere with public traffic and parking, access to emergency vehicles, the COUNTY's operations, or Work operations.
63. CONTRACTOR shall coordinate with the COUNTY to provide temporary parking facilities for the public as Work operations dictate.
64. CONTRACTOR shall provide parking areas for worker's private vehicles that comply with applicable laws, regulations, codes, and ordinances.
65. CONTRACTOR shall ensure free vehicular access to and through the parking areas.
66. CONTRACTOR shall not permit parking on or adjacent to access roads or in non-designated areas.

#### **Haul Routes**

67. CONTRACTOR shall consult with governing authorities and establish thoroughfares, which shall be used as haul routes and DDMS access.
68. CONTRACTOR shall confine the prosecution of the Work to designated haul routes.
69. CONTRACTOR will be required to provide traffic control at critical points of haul routes to expedite traffic flow and minimize interference with normal public traffic.

## **D. TEMPORARY DISASTER DEBRIS MANAGEMENT SITE OPERATIONS**

### **General**

1. The COUNTY will make every effort to identify strategically located temporary DDMS throughout the County prior to a natural disaster. Depending upon the severity of the natural disaster, additional temporary DDMS will be identified as needed. The locations of County landfills and publicly owned sites currently under consideration as DDMS are shown on Attachment A-1.
2. Locations of any additional DDMS will be approved by the COUNTY. The CONTRACTOR shall use only DDMS approved by the COUNTY and FDEP.
3. The COUNTY plans include use of two types of Temporary Disaster Debris Management Sites (DDMS):
  - a. Vegetative DDMS will be devoted to the temporary storage of clean vegetative debris, and reduction by either grinding or burning. The COUNTY expects the material to be recycled and/or beneficially used if processed by grinding.
  - b. Construction & Demolition (C&D) DDMS may be required depending upon the size and type of devastation to the COUNTY with separate C&D and mixed debris staging areas. The COUNTY requests that CONTRACTOR implement recycling and/or reduction programs to minimize the quantity of construction debris material to be landfilled.
4. The CONTRACTOR shall manage and operate the DDMS. Only debris authorized to be collected and hauled from the CONTRACTOR's Project Area shall be accepted at the DDMS. The public will not be permitted to use these sites.
5. The COUNTY or participating municipality may also establish designated homeowner drop-off sites within the Project Area for the convenience of the residents. The CONTRACTOR will be responsible for removing all eligible debris from those sites at the direction of the DIRECTOR or designee.
6. CONTRACTOR shall provide all necessary labor, materials and equipment to process, load and haul mulch and construction and/or mixed debris from DDMS to final destination for disposal as directed by the COUNTY. The work shall consist of performing debris reduction by grinding, mulching and/or air curtain incineration of storm generated debris as directed by the COUNTY.
7. The COUNTY reserves the right to contract with other firms to process, load and haul wood chips and construction and/or mixed debris to a final destination as may best meet the needs of the COUNTY. All mulch, wood chips, construction and/or mixed debris shall be disposed of or put to beneficial use in accordance with all local, State of Florida and federal guidelines.

### **Temporary Debris Site Management Plan**

8. The CONTRACTOR shall provide a Site Management Plan to the DIRECTOR. The plan shall be drawn to a Scale of 1" = 50' and address the following functions:
  - Access to site
  - Site preparation -clearing, erosion control, and grading
  - Traffic control procedures
  - Safety
  - Segregation of debris
  - Location of inspection tower, sanitary facilities, debris storage area, mulching operations area, hazardous material containment area, CONTRACTOR work area,

- Location of incineration operations (if required). Burning operations require a 100-foot clearance from the stockpile and a 1000-foot clearance from structures
- Location of existing structures or sensitive areas requiring protection

### **Temporary DDMS Set Up**

9. All pre-storm identified DDMS sites shall be set up according to the Plan, opened by the CONTRACTOR and operational within 24 hours after receiving approval from the COUNTY to operate the debris site; or within 72 hours for post-storm identified DDMS sites.
10. The COUNTY shall take photographs of the site prior to set up and operations to document the condition of the site prior to use and as basis for site restoration.
11. The CONTRACTOR shall set up an Inspection Tower for COUNTY monitor(s). The tower shall have a roof for rain and sun protection with a minimum of 6'-6" of headroom, and be of sufficient size to support a minimum of three (3) inspectors and of adequate height to measure all incoming trucks. The CONTRACTOR may use OSHA approved scaffolding towers or scissor lifts.
12. Each DDMS shall be equipped with two (2) portable toilets. Toilets shall be provided immediately upon completion of tower assembly.
13. The CONTRACTOR will setup a lined containment area and separate any HHW inadvertently delivered to a DDMS.
14. The CONTRACTOR shall assign a DDMS foreman to direct DDMS operations. The foreman is responsible for management of all operations of the site to include, traffic control, dumping operations, segregation of debris, burning, grinding, and safety.
15. CONTRACTOR shall maintain all temporary debris-processing sites in accordance with all local, state, and federal rules and regulations including requirements for erosion control, storm water management, fire control.
16. CONTRACTOR shall provide a water truck, or other approved means for applying water to site surface and debris piles to minimize fugitive emissions.
17. Only the CONTRACTOR's vehicles and others specifically authorized by the COUNTY will be allowed to use the DDMS. Only one (1) level of subcontractor will be allowed to operate the site. There will be no multi-tiered subcontractors (sub of a sub) allowed to operate DDMS.

### **Temporary DDMS Services**

18. The CONTRACTOR is responsible for all debris management activity at DDMS operated by their subcontractor and who must have an employee on site at all times debris is being loaded or unloaded, moved, or reduced to oversee daily operations.
19. The CONTRACTOR shall supervise and direct the work, using skilled labor and proper equipment for all tasks. Safety of the Contractor's personnel and equipment is the responsibility of the CONTRACTOR. The CONTRACTOR shall be responsible for control of pedestrian and vehicular traffic in the work area.
20. The COUNTY will inspect each load to verify the contents are considered eligible debris. If any load is determined to contain material that does not conform to the definition of eligible debris, the load will be ordered to be deposited at a landfill or another approved facility. The Contractor will not invoice the City for such loads. No payment will be made for ineligible loads.

21. The COUNTY or the COUNTY's Agent shall make load calls and will be responsible for determining cubic yards of material brought to the site by the CONTRACTOR's certified trucks.
22. The COUNTY's DRMC will issue load tickets and provide a copy of each load ticket or disposal ticket indicating the measured quantity of the load to the driver operating each of the CONTRACTOR's trucks. The COUNTY DDMS monitor will retain one copy of the load ticket.
23. Material entering a DDMS shall be deposited in manageable piles; different types of debris shall be kept in separate piles. CONTRACTOR shall be responsible for inspection and maintenance of each pile to ensure traffic maneuverability and ease of load dumping, access to the piles by emergency vehicles and personnel in case of fire or other emergency, and relocation of all loads not dumped in the appropriate locations or that result in the mixing of once separated debris at no additional charge to the COUNTY. The CONTRACTOR shall perform the inspection and necessary maintenance a minimum of once per operating day.
24. CONTRACTOR shall be responsible for cleaning up all trash and litter generated on the site from daily operations and depositing into a solid waste container for collection and disposal at a solid waste landfill or transfer station.
25. CONTRACTOR shall provide stabilized ingress and egress to each debris-processing site and shall maintain such access throughout the life of the site. The entrance roadway and surrounding area within ½ mile of the site's entrance shall be kept free of debris by the CONTRACTOR.

#### **Processing, Loading and Hauling Material**

26. The CONTRACTOR shall provide all necessary labor, material and equipment to process, load and haul mulch/wood chips and construction and demolition debris or mixed debris from DDMS to final destination in Brevard County for disposal or beneficial use as directed by the COUNTY. The COUNTY reserves the right to contract with other firms to process, load and haul wood chips and construction and/or mixed debris to a final destination as may best meet the needs of the COUNTY.
27. CONTRACTOR shall reduce large stumps to a size capable of being processed by the CONTRACTOR's grinding equipment. All vegetative debris at each DDMS must be processed.
28. The CONTRACTOR shall begin grinding vegetative debris within 7 calendar days of notification by the COUNTY and shall begin removing mulch/wood chips within 28 calendar days of date mulching begins. The CONTRACTOR shall begin removal of construction and demolition debris and mixed debris from DDMS to an approved final destination within 60 days of site opening date.

#### **Mulching/Grinding:**

29. CONTRACTOR will only mulch/grind clean vegetation that contains less than 10% contaminants and no plastics.
30. The grinding must produce a mulch product with ninety-five (95%) of its final particle size less than three (3) inches in its longest diameter.
31. CONTRACTOR will place mulch in piles no greater than 15 feet high. An adequate fire lane shall be provided between piles to permit access by water trucks or firefighting equipment as necessary. Once the mulch has been transported to a designated facility within Brevard County, it becomes the responsibility of the COUNTY for further resolution.

#### **Burning:**

32. CONTRACTOR shall obtain approval from the appropriate State agencies prior burning vegetative debris.

33. CONTRACTOR shall use a state approved pit air curtain incinerator, or portable air curtain incinerator. CONTRACTOR is responsible for monitoring all burning operations to ensure efficient operation and compliance with all clean air and other applicable federal, state and local regulations and standards.
34. CONTRACTOR will transport resulting ash to the Central Disposal Facility, or other facility approved by COUNTY.
35. While stockpiled at a DDMS, ash will be placed by the CONTRACTOR on impermeable liners adequate to prevent runoff or possible contamination, unless otherwise authorized by FDEP. Liners will be provided, installed, and maintained by the CONTRACTOR.

**Recycling:**

36. The CONTRACTOR is encouraged to recycle materials in accordance with local, state, and federal regulations.
37. Any efforts to segregate recyclable materials and the potential economic return are at the discretion of the CONTRACTOR.

**Removal:**

38. The CONTRACTOR shall notify the COUNTY 3 days in advance of removal of mulch/wood chips, C&D or mixed debris from DDMS to final disposal site.
39. All wood chips, construction and/or mixed debris shall be disposed of in accordance with all Local, State of Florida and federal guidelines.
40. Any accumulations of HHW inadvertently delivered to a DDMS shall be transported to a Household Hazardous Waste Collection Center under the direction of the DIRECTOR or designee.

**DDMS reclamation**

41. At the completion of the Work, CONTRACTOR shall remove all garbage, waste materials, rubbish, debris, contaminated soils, etc. from and about the DDMS, as well as all tools, appliances, equipment and machinery.
42. CONTRACTOR shall restore to original condition all property not designated for alteration by the Contract Documents. Such restoration may include grading of the site to pre-use condition, and seeding and mulching of the exposed areas per Florida Department of Transportation Standard Specifications for Road and Bridge Construction, January 2018, Section 570-Performance Turf, or paving as deemed necessary by the COUNTY.
43. CONTRACTOR may use screened soils that are free of contaminants for site restoration.
44. The COUNTY shall determine the acceptability of the restoration upon inspection by the DIRECTOR or designee.

**E. PAYMENTS**

1. The COUNTY will determine the actual quantities and classifications of Unit Price Work performed by CONTRACTOR by measuring all loads brought by the CONTRACTOR to each DDMS or solid waste disposal facility.
2. Payment for debris collected, hauled, processed and disposed will be based on the quantity of debris hauled to the DDMS or landfill in cubic yards as recorded on the electronic or paper load ticket.
3. Payment will be made against the CONTRACTOR'S invoice once the COUNTY and CONTRACTOR load tickets and/or scale tickets match. Load tickets not properly completed will not be paid.

4. The Contractor will not be compensated for disposing of any material not defined as eligible debris.

## **F. TERMINATION**

CONTRACTOR may be immediately terminated and not paid for the following:

- Collection of any non-eligible debris.
- Moving to another designated Work Zone without prior COUNTY approval.
- Failure to provide service in accordance to guidelines set forth by FEMA and the COUNTY.
- Soliciting work from private citizens or others to be performed in the designated Project Area during the period of this Agreement.
- Alteration of placards placed on certified trucks and/or trailers.
- Alteration of certified trucks and/or trailers without prior approval, re-measurement and re-certification by COUNTY

## **G. DISPUTES, DAMAGES**

1. Any disputes regarding performance of CONTRACTOR will be presented to the Solid Waste Management DIRECTOR or designee for review. The DIRECTOR or designee shall conduct a complete review and make determination within three (3) calendar days. Decisions of the DIRECTOR or designee shall be final.
2. The COUNTY or designee shall forward all claims of damage to the CONTRACTOR daily. CONTRACTOR must respond to all claims of damage within 24 hours and resolve within ten (10) calendar days, unless otherwise approved by the COUNTY.
3. Mailboxes must be repaired or replaced within two (2) calendar days.
4. In the event the CONTRACTOR fails to repair damages as a result of the Contractor's equipment failure or negligence within the time provided, the COUNTY or designee may arrange for the repairs and assess the CONTRACTOR for the cost of the repairs and any applicable administrative charges. Any disputes as to damage responsibility will be presented to the DIRECTOR for review. The decision of the DIRECTOR will be final.
5. The CONTRACTOR shall be responsible for correcting any notices of violations issued as a result of the CONTRACTOR'S or any subcontractor's actions or operations during the performance of this Agreement. Corrections for any such violations shall be at no additional cost to the COUNTY.
6. The COUNTY shall have the right to correct for CONTRACTOR'S default or under-performance by any means it deems in its best interest.

**ATTACHMENT A-1**  
**BREVARD COUNTY LANDFILLS AND TEMPORARY DISASTER DEBRIS STORAGE SITES**  
**DISASTER DEBRIS COLLECTION, REDUCTION AND DISPOSAL SERVICES**

(In event of disaster, County will pursue additional sites)

North Brevard Road & Bridge Materials Yard  
2984 Old Dixie Hwy, Mims  
Lat 28:40:53 / Long 80:50:56

Mockingbird Way Mulching Facility  
3066 South Street  
Titusville, FL  
Lat 28:34:25.9 / Long 80:50:51.5

Central Disposal Facility  
2250 Adamson Road  
Cocoa FL 32955  
Lat 28:23:39.4955 / Long 80:49:15.7482

Sarno Road Landfill  
3379 Sarno Road  
Melbourne, FL  
Lat 28:6:49.16 / Long 80:41:2.03

South Beaches Wastewater Treatment Plant  
2800 South Highway A1A,  
Melbourne Beach  
Lat 28:2:26.67 / Long 80:33:4.71

**EXHIBIT B  
FEE SCHEDULE  
DISASTER DEBRIS COLLECTION, REDUCTION AND DISPOSAL SERVICES**

The term Fee Schedule as used herein shall mean the unit pricing as shown below and made a part hereof, paid to CONTRACTOR. The unit pricing includes debris pickup and disposal for vegetation, construction and demolition (C&D), sand, hazardous and biohazardous waste, dead animals, and emergency road clearing.

<u>Item Description</u>	<u>Unit Price</u>
Vegetative Debris per CY	\$14.75
C&D Debris per CY	\$14.90
Sand per CY	\$12.25
Hazardous/Biohazardous Waste per lb	\$25.00
Dead Animals per lb	\$4.25
Emergency Road Clearing per hour (inclusive of equipment and operator)	\$325.00

**PAYMENT BOND**



KNOW ALL MEN BY THESE PRESENTS: that

Name of Contractor: \_\_\_\_\_

Address of Contractor: \_\_\_\_\_

a \_\_\_\_\_ hereinafter called "Principal", and  
(Corporation/Partnership/Individual)

Name of Surety: \_\_\_\_\_

Address of Surety: \_\_\_\_\_

hereinafter called "Surety", are held and firmly bound unto the Brevard County Board of County Commissioners, 2725 Judge Fran Jamieson Way, Building A, Room 118, Viera, Florida 32940, hereinafter called OWNER, in the penal sum of \_\_\_\_\_ Dollars, \$ \_\_\_\_\_ in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas the Principal entered into a certain contract with the OWNER dated the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, a copy of which is hereto attached and made a part hereof for the construction of:

Project Name: **Disaster Debris Collection, Reduction, and Disposal Services**

NOW, THEREFORE, if the Principal:

1. Promptly makes payment to all persons, firms, SUBCONTRACTORS, and corporations furnishing materials for or performing labor in the prosecution of the WORK provided for in such contract, and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, consumed or used in connection with the construction of such WORK, and all insurance premiums on said WORK, and for all labor, performed in such WORK whether by SUBCONTRACTOR or otherwise; and

2. 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; then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the said Surety, for value received hereby, stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to WORK to be performed thereunder or the SPECIFICATIONS accompanying the same shall in any way affect its obligation on this BOND, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the WORK or to the SPECIFICATIONS.

PROVIDED, FURTHER, that no final settlement between the OWNER and the CONTRACTOR shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in three (3) counterparts, each one of which shall be deemed an original, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

**ATTEST:**

\_\_\_\_\_  
Authorized Signature  
\_\_\_\_\_  
Name  
\_\_\_\_\_  
Title

**FOR  
PRINCIPAL:**

\_\_\_\_\_  
Authorized Signature  
\_\_\_\_\_  
Name  
\_\_\_\_\_  
Title

**(Affix Seal Above)**

**ATTEST:**

\_\_\_\_\_  
Authorized Signature  
\_\_\_\_\_  
Name  
\_\_\_\_\_  
Title

**FOR SURETY:**

\_\_\_\_\_  
Authorized Signature  
\_\_\_\_\_  
Name  
\_\_\_\_\_  
Title

**(Affix Seal Above)**

**NOTARY:**

\_\_\_\_\_  
Authorized Signature  
\_\_\_\_\_  
Name  
\_\_\_\_\_  
Title

**FLORIDA  
AGENT**

\_\_\_\_\_  
Authorized Signature  
\_\_\_\_\_  
Name  
\_\_\_\_\_  
Title

**NOTARY  
SEAL**

**FLORIDA  
ADDRESS**

\_\_\_\_\_  
Local Agent Name  
\_\_\_\_\_  
Florida Address  
\_\_\_\_\_  
City, State, Zip

**NOTE: If CONTRACTOR is Partnership, all partners should execute BOND.**

**IMPORTANT: Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the state of Florida.**

**\*\*\* END OF PAYMENT BOND \*\*\***

**PERFORMANCE BOND**



**KNOW ALL MEN BY THESE PRESENTS: that**

Name of Contractor: \_\_\_\_\_

Address of Contractor: \_\_\_\_\_

a \_\_\_\_\_ hereinafter called "Principal, and  
(Corporation/Partnership/Individual)

Name of Surety: \_\_\_\_\_

Address of Surety: \_\_\_\_\_

hereinafter called "Surety", are held and firmly bound unto the Brevard County Board of County Commissioners, 2725 Judge Fran Jamieson Way, Building A, Room 118, Viera, Florida 32940, hereinafter called OWNER, in the penal sum of \_\_\_\_\_ Dollars, \$ \_\_\_\_\_ in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas the Principal entered into a certain contract with the OWNER dated the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ a copy of which is hereto attached and made a part hereof for the construction of:

Name of Project: **Disaster Debris Collection, Reduction, and Disposal Services**

NOW, THEREFORE, if the Principal shall well, truly and faithfully perform its duties, all the undertakings, covenants, terms, conditions, and agreements of said Contract during the original term thereof, and any extensions thereof which may be granted by the OWNER, with or without notice to the Surety and during the two-year guaranty period and if CONTRACTOR shall satisfy all claims and demands incurred under such Contract, and shall fully indemnify and save harmless the OWNER from all costs and damages which it may suffer by reason of failure to do so, and shall reimburse and repay the OWNER all outlay and expense which the OWNER may incur in making good any default, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the said Surety, for value received hereby, stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to WORK to be performed thereunder or the SPECIFICATIONS accompanying the same shall in any way affect its obligation on this BOND, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the WORK or to the SPECIFICATIONS.

PROVIDED, FURTHER, that no final settlement between the OWNER and the CONTRACTOR shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in three (3) counterparts, each one of which shall be deemed an original, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**ATTEST:**  
\_\_\_\_\_  
Authorized Signature  
\_\_\_\_\_  
Name  
\_\_\_\_\_  
Title

**FOR PRINCIPAL:**  
\_\_\_\_\_  
Authorized Signature  
\_\_\_\_\_  
Name  
\_\_\_\_\_  
Title

**(Affix Seal Above)**

**ATTEST:**

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

(Affix Seal Above)

**NOTARY:**

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

**NOTARY  
SEAL**

**FOR SURETY:**

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

**FLORIDA  
AGENT**

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

**FLORIDA  
ADDRESS**

\_\_\_\_\_  
Local Agent Name

\_\_\_\_\_  
Florida Address

\_\_\_\_\_  
City, State, Zip

**NOTE: Date of BOND must not be prior to date of CONTRACT. If CONTRACTOR is Partnership, all partners should execute BOND.**

**IMPORTANT: Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the state where the PROJECT is located.**

**\*\*\* END OF PERFORMANCE BOND \*\*\***

E-VERIFY

Contract No: \_\_\_\_\_

Financial Project No: \_\_\_\_\_

Project Description: Disaster Debris Collection, Reduction, and Disposal

Vendor/Consultant/Contractor acknowledges and agrees to the following:

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

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

Company/Firm: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_