

**MASTER AGREEMENT FOR PROGRESSIVE DESIGN-BUILD SERVICES FOR  
22P-118 SILVER SPRINGS SHORES PHASE 1 SEPTIC TO SEWER PROJECT**

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A	Substantial Copy of Grant Agreement (05.13.21).	
B	ARPA Contract Clauses.	
C	Non-Collusive Affidavit.	
D	Public Entity Crimes Form.	

**MASTER AGREEMENT FOR PROGRESSIVE DESIGN-BUILD SERVICES FOR  
22P-118 SILVER SPRINGS SHORES PHASE 1 SEPTIC TO SEWER PROJECT**

**This Master Agreement for Progressive Design-Build Services for 22P-118 SILVER SPRINGS SHORES PHASE 1 SEPTIC TO SEWER Project (this "Master Agreement"), made and entered into by and between:**

**MARION COUNTY**, a political subdivision of the State of Florida  
601 SE 25<sup>th</sup> Ave.  
Ocala, FL 34471  
(hereinafter referred to as "COUNTY"),

AND

**QUALITY ENTERPRISES USA, INC.**  
3494 Shearwater St.  
Naples, FL 34117  
(hereinafter referred to as "CONTRACTOR") (each above  
hereinafter individually "Party," collectively "Parties").

**WHEREAS**, on or about May 13, 2021, pursuant to sections 602(b) and 603(b) of the Social Security Act as added by section 9901 of the American Rescue Plan Act of 2021, Pub. L. No 117-2 (March 11, 2021) ("ARPA"), COUNTY was awarded certain Coronavirus State and Local Fiscal Recovery Funds ("SLFRF") by the Federal government through the United States Department of the Treasury (the "GRANTOR"), pursuant to a grant agreement (the "Grant Agreement") for use with the instant Project (defined herein). The funds from this award make the Project possible. A substantial copy of the Grant Agreement and the ARPA Contract Clauses are attached hereto and fully incorporated herein as Exhibit "A" and Exhibit "B" respectively; and

**WHEREAS**, on December 10, 2022, via RFQ# 22Q-058, Progressive Design Build Services for Utilities ARPA Projects (the "RFQ"), COUNTY advertised its notice to bidders of COUNTY'S desire to prequalify firms to perform the work as described in the RFQ and is deemed fully incorporated herein by reference (hereinafter referred to as "Project"); and,

**WHEREAS**, on February 9, 2022, the review committee completed the evaluation of the RFQ and short listed four (4) firms; and,

**WHEREAS**, on April 11, 2022, COUNTY offered RFP# 22P-118 (the "RFP") to the RFQ short listed firms; and,

**WHEREAS**, subsequently thereto, COUNTY completed its final rankings of design build firms responding to the RFQ under which CONTRACTOR was top ranked. Accordingly, COUNTY and CONTRACTOR proceed with this Master Agreement; and

**WHEREAS**, the Project at issue consists of one (1) design related task plus one (1) construction related task, identified as: Task 1 - Design and Permitting; and Task 2 - Construction.

**WHEREAS**, COUNTY and CONTRACTOR agree to negotiate a Contract Price for each of the two (2) tasks and formalize the understanding with a Contract Amendment (defined herein) for each respective task; and,

**WHEREAS**, COUNTY and CONTRACTOR, in reliance on CONTRACTOR'S response to the RFQ and RFP, now desire to enter into this Master Agreement regarding the Project; and,

**WHEREAS**, COUNTY has determined that entering into this Master Agreement with CONTRACTOR concerning the design and construction of the Project is in the best interest of the citizens and residents of Marion County, Florida; and,

**WHEREAS**, because there will be inherent efficiencies and economies achieved by COUNTY which will be in the best interest of its citizens and residents, COUNTY has determined it is appropriate to enter into this Master Agreement embracing both the design and construction of the Project, all as more fully set forth below.

**NOW, THEREFORE, IN CONSIDERATION** of the mutual covenants and undertakings set forth below and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties do mutually covenant and agree as follows:

**ARTICLE 1 - DEFINITIONS.**

- 1.1 Wherever used in this Master Agreement or in the other Contract Documents, the following terms have the meanings indicated which are applicable to both the singular and plural thereof:
- A. **Allowance.** A sum set aside by COUNTY for intended work that may or may not be utilized by COUNTY.
  - B. **American Rescue Plan Act of 2021 or ARPA.** Pub. L. No 117-2 (March 11, 2021). That law signed by President Biden on March 11, 2021, providing direct relief to local governments in the United States and administered by the United States Department of the Treasury.
  - C. **ARPA Contract Clauses.** Those special terms and conditions applicable to the performance of this Master Agreement by virtue of the source of Grant funding. The ARPA Contract Clauses are attached hereto and fully incorporated herein as **Exhibit "B."**
  - D. **Change Order.** A document authorized by COUNTY, which is signed by CONTRACTOR and COUNTY and authorizes an addition, deletion or revision in the Work, and/or an adjustment in the Contract Sum or the Contract Time, issued on or after the Effective Date of this Master Agreement.
  - E. **Contingency.** A sum set aside by COUNTY to fund unforeseen or unexpected design services or construction work.

- F. **Contract Amendment.** A future amendment to this Master Agreement signed by COUNTY and CONTRACTOR and entered to reflect the Parties' understandings and respective obligations as the Project progresses through Task 1 and Task 2.
- G. **Construction Documents.** Design documents issued sufficiently complete to submit to the governmental authorities having jurisdiction over the Work for permits or authorization for construction of the Project.
- H. **Contract Documents.** The Contract Documents consist of those documents governing the performance of the Project. The Contract Documents include, but are not limited to:

ITEM	EXHIBITS	TITLE
1.		This Master Agreement.
2.	A	Substantial copy of Grant Agreement
3.	B	ARPA Contract Clauses with attachments
4.	C	Non-Collusive Affidavit.
5.	D	Public Entity Crimes Form.
6.		All applicable provisions of State, Federal or local law as referenced in the Contract Documents.
7.		Any additional documents which are submitted under this Master Agreement, by Contract Amendment or otherwise, including but not limited to:
8.		Construction Documents.
9.		Contract Amendments, modifications and supplements.
10.		Exhibits to Contract Amendments.
11.		Schedule of Values.
12.		Construction Performance and Payment Bonds.
13.		Insurance Certificate(s).
14.		Drawings and Outline Specifications.
15.		Notice of Award.
16.		Notice to Proceed.
17.		Purchase Orders.
18.		Change Orders.
19.		Field Orders.
20.		Work change directives.
21.		Any amendments to the above, signed by both Parties issued on or after the Effective Date of this Master Agreement.

- I. **Contract Sum.** The total amount payable by COUNTY to CONTRACTOR for performance of the Work under the Contract Documents, for each of the Tasks respectively including authorized adjustments.
- J. **Contract Time.** The period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

- K. **CONTRACTOR.** The person, firm or corporation with whom COUNTY has contracted for the Project and who is a Florida licensed Contractor who, pursuant to its undertakings more particularly set forth herein, has subcontracted for the services of the Engineer of Record for the Project.
- L. **COUNTY.** Marion County, a political subdivision of the State of Florida, and its assigns, with whom CONTRACTOR has entered into this Master Agreement and for whom the Work is to be performed.
- M. **Day(s).** Unless specified differently herein, all references to day(s) shall mean calendar days.
- N. **Defective.** An adjective which when modifying the Work refers to Work that is unsatisfactory, faulty or deficient, or does not conform to the Contract Documents, or does not meet the requirements of any inspection, reference standard, test or approval referred to in the Contract Documents, or has been damaged prior to final payment.
- O. **Drawings.** The drawings which show the character and scope of the Work to be performed and which are referred to in the Contract Documents.
- P. **Effective Date of this Master Agreement.** The date indicated in this Master Agreement on which it becomes effective, but if no such date is indicated it means the date on which the Agreement is executed by the last signatory to this Master Agreement.
- Q. **Final Completion.** That stage in performance of the Project when all Work required by the Contract Documents is fully completed including, but not limited to:
- 1) **Task 1 - Design and Permitting.** The design is complete, the necessary permits are obtained for Task 2, and the Guaranteed Maximum Price for the Project is developed.
  - 2) **Task 2 - Construction.** The completion of all punch list items; the issuance of all required permits and certificates of final occupancy and/or use; the delivery of all record Drawings, electronic files, manuals, warranty certificates and proof of performance testing; and, all required training.
- R. **Final Completion Date.** The date upon which Final Completion is reached for each of the Tasks.
- S. **Field Order.** A written order issued by the Utilities Director or authorized designee which directs minor changes in the Work but which does not involve a change in the Contract Sum or the Contract Time.
- T. **Grant Agreement.** That agreement providing funds for the Project and having terms and conditions that govern the performance of this Master Agreement. A substantial copy of the Grant Agreement approved by COUNTY on or about May 13, 2021, is attached hereto and fully incorporated herein as **Exhibit "A."**

- U. **GRANTOR.** The Federal government through the United States Treasury providing and/or administering Federal funds for the Project pursuant to the Grant Agreement.
- V. **Guaranteed Maximum Price.** The basis for compensation for Task 2 to be developed and agreed upon by the Parties. CONTRACTOR assumes all risk for exceeding the Guaranteed Maximum Price.
- W. **Master Agreement.** Collectively all written agreements, including any amendments thereto, between COUNTY and CONTRACTOR covering the Work to be performed including other Contract Documents that are attached to this Master Agreement or made a part hereof by reference. The body of the Master Agreement contains COUNTY's Standard Terms and Conditions. Special terms and conditions related to the American Rescue Plan Act ("ARPA") are attached as **Exhibit "B."** In case of conflict between the Standard Terms and Conditions or the ARPA Contract Clauses, the ARPA Contract Clauses shall take precedence.
- X. **Notice of Award.** The written notice by COUNTY to CONTRACTOR stating that upon compliance by CONTRACTOR with the conditions precedent enumerated therein within the time specified, COUNTY will execute and deliver this Master Agreement.
- Y. **Notice to Proceed.** Written notification by COUNTY to CONTRACTOR authorizing commencement of any part of the Work required by this Master Agreement.
- Z. **Partial Utilization/Partially Utilize.** Placing a portion of the Work in service for the purpose for which it was intended (or a related purpose) before Substantial Completion of the entire Work.
- AA. **Program Manager.** Alan J. Garri, P.E., or other assigned representative(s) of Kimley-Horn and Associates, Inc., with local offices at 101 East Silver Springs Blvd., Suite 400, Ocala, FL 34470. Telephone: 352/438-3030, Cell phone: 352/342-0970.
- BB. **Project.** That project for Silver Springs Shores Phase I Septic to Sewer as set forth in RFQ 22Q-058, Progressive Design Build Services for Utilities ARPA Projects and RFP 22P-118 Silver Springs Shores Phase I Septic to Sewer Project.
- CC. **Project Manager.** The person that coordinates and facilitates the Project in accordance to the Contract Documents. Both Parties shall provide a Project Manager for the Project.
- DD. **Standard Terms and Conditions.** Those terms and conditions found in the body of the Master Agreement. Special terms and conditions related to the American Rescue Plan Act ("ARPA") are attached as **Exhibit "B"**, entitled ARPA Contract Clauses. In case of conflict between the Standard Terms and Conditions and the ARPA Contract Clauses, the ARPA Contract Clauses shall take precedence.

- EE. **Specifications.** Those portions of the Contract Documents consisting of written technical descriptions for labor; materials; equipment; construction systems; standards and workmanship; and certain administrative details applicable to the Work.
- FF. **Subcontractor.** An individual or legal entity having a direct Contract with CONTRACTOR for the performance of a part of the Work.
- GG. **Substantial Completion.** The stage and progress of the Work when the Work or a designated portion thereof is sufficiently completed in accordance with the Contract Documents. Substantial Completion applies solely to Task 2 - Construction and is defined as of each Task is as that date upon which:
- 1) COUNTY can utilize or occupy the Work for its intended purpose; and
  - 2) A Certificate of Substantial Completion has been executed by the engineer of record and COUNTY indicating the date the Project was substantially completed and the punch list of items required to be completed prior to Final Completion.
- HH. **Substantial Completion Date.** The date by which CONTRACTOR must achieve Substantial Completion for Task 2 - Construction, as determined by the original Contract Time for said Task, plus time extensions granted by approved Change Order.
- II. **Supplier.** A manufacturer, fabricator, supplier, distributor, materialman or vendor who does not perform labor at the site of the Work.
- JJ. **Task 1 - Design and Permitting.** Complete preconstruction Project development and professional design, permits necessary for Task 2 are obtained, and a Guaranteed Maximum Price for the Project is developed.
- KK. **Task 2 - Construction.** Construct the Project in accordance with the Contract Documents.
- LL. **Tasks.** A collective reference to the two components of the Project, i.e., Task 1 - Design and Permitting, and Task 2 - Construction.
- MM. **Utilities Director.** The Utilities Director of COUNTY, or any authorized employee(s) or other designee(s).
- NN. **Work.** Work is the result of performing the services and supplying the labor, materials and equipment, for each respective Task to complete the Project, generally stated to include but not be limited to: Task 1 - Design and Permitting, completing all preconstruction development; and Task 2 - Construction, implementing the product derived from Task 1 through an organized process, all as required by the Contract Documents.
- OO. **Work Change Directive.** A written directive to CONTRACTOR issued on or after the Effective Date of this Master Agreement and signed by COUNTY ordering an addition, deletion or revision in the Work. A Work Change Directive shall not

change the Contract Sum or Contract Time, but it is an expression of the intention of the Parties that they expect the change directed or documented by the Work Change Directive to be incorporated in a subsequently issued Change Order following negotiations by the Parties as to its effect, if any, on the Contract Sum or Contract Time.

## **ARTICLE 2 - CONTRACT DOCUMENTS.**

### **2.1 Contract Documents Govern.**

CONTRACTOR is required to perform this Master Agreement in conformance with all the Contract Documents, defined above. Should any conflict arise between the Contract Documents and this Master Agreement, the terms of this Master Agreement shall take precedence.

### **2.2 Contract Documents, Current and Future.**

The Parties specifically agree that certain Contract Documents exist at the time of entering this Master Agreement while others will necessarily be developed as the Project progresses. The Parties shall enter Contract Amendments to reflect the Project progression and the associated Contract Documents will be referenced therein.

### **2.3 Contract Documents, Exhibits.**

Performance of the Project shall be in conformance with the following Contract Documents, marked as exhibits:

- A. Grant Agreement between Marion County and GRANTOR approved by COUNTY on or about May 13, 2021, a substantial copy of which is attached hereto and fully incorporated herein as **Exhibit "A."**
- B. ARPA Contract Clauses, the Grant associated special terms and conditions, which are attached hereto and fully incorporated herein as **Exhibit "B."**
- C. Non-Collusive Affidavit, which is attached hereto and fully incorporated herein as **Exhibit "C."**
- D. Public Entity Crimes Form, which is attached hereto and fully incorporated herein as **Exhibit "D."**

### **2.4 Entire Agreement.**

The Contract Documents comprise the entire agreement between COUNTY and CONTRACTOR concerning the Work. The Contract Documents are complimentary; 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 laws of the State of Florida.

### **2.5 Intent.**

It is the intent of the Contract Documents to describe a functionally complete Project consisting of the design performed by the design professional and construction to be completed in accordance with the Contract Documents. When words which have a well-known technical or trade meaning are used to describe Work, materials or equipment, such words shall be interpreted in accordance with that meaning. Reference to standard



specifications, manuals or codes of any technical society, organization or association, or to the laws or regulations of any governmental authority, whether such reference be specific or by implication, shall mean the latest standard specification, manual, code or laws or regulations in effect on the date of the Notice of Award for the Project, except as may be otherwise specifically stated. However, no provision of any referenced standard specification, manual or code (whether or not specifically incorporated by reference in the Contract Documents) shall be effective to change the duties and responsibilities of COUNTY, CONTRACTOR, or any of their consultants, agents or employees from those specifically set forth in the Contract Documents.

2.6 Amending and Supplementing Contract Documents.

The Contract Documents may be amended to provide for additions, deletions and revisions in the Work or to modify the terms and conditions of this Master Agreement, in writing, in one or more of the following ways:

- A. A Change Order; or
- B. A Contract Amendment; or
- C. Work Change Directive.

2.7 Material Breach.

Any proposed change in this Master Agreement shall be submitted to COUNTY for its prior approval. CONTRACTOR shall at all times comply with all applicable regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the, or as they may be amended or promulgated from time to time during the term of this Master Agreement. CONTRACTOR's failure to so comply shall constitute a material breach of this Master Agreement.

2.8 Supplements, Minor Variations or Deviations.

A. COUNTY will not authorize any changes to the Contract Documents, except in a manner allowed by law. CONTRACTOR covenants and agrees that COUNTY shall not be responsible for any costs in excess of those set forth herein unless the same are set forth in a Change Order, Contract Amendment or are negotiated following the issuance of a Written Change Directive.

B. The requirements of the Contract Documents may be supplemented and minor variations and deviations in the Work may be authorized in one or more of the following ways:

- 1) Utilities Director's approval of a shop drawing or sample; or
- 2) Utilities Director's written interpretation or clarification regarding the Work;  
or
- 3) A Field Order.

2.9 Representation of CONTRACTOR.

Execution of this Master Agreement by CONTRACTOR is a representation that CONTRACTOR has visited the site and become familiar with the local conditions under which the Work is to be performed, and agrees to be bound by the terms of this Master Agreement.

2.10 Before Commencing Operations.

Before undertaking each part of the Work, CONTRACTOR shall carefully study and compare the Contract Documents and check and verify pertinent figures shown thereon. CONTRACTOR shall promptly report in writing to COUNTY and Utilities Director any conflict, error or discrepancy which CONTRACTOR may discover and CONTRACTOR shall obtain a written interpretation or clarification from Utilities Director before proceeding with any Work affected thereby.

**ARTICLE 3 - SCOPE OF WORK.**

3.1 CONTRACTOR shall provide services for the development, design and construction of the Project as described in the Contract Documents in full conformance with the Contract Documents.

3.2 CONTRACTOR warrants that: (1) it has the institutional managerial, and financial capability to ensure proper planning, management and completion of the Project; (2) the services will be performed by qualified personnel; (3) the services will be of the kind and quality described in Contract Documents and the Grant Agreement; (4) the services will be performed in a professional and workmanlike manner in accordance with industry standards and practices; (5) the services shall not and do not knowingly infringe upon the intellectual property rights, or any other proprietary rights, of any third-party; and (6) its employees and subcontractors shall comply with all security and safety requirements and processes for all Work performed on the Project. CONTRACTOR acknowledges that COUNTY and representatives of GRANTOR reserve the right to investigate or inspect at any time to determine whether the services or qualifications offered by CONTRACTOR meet this Master Agreement requirements. Notwithstanding any provisions herein to the contrary, written acceptance of a particular deliverable does not foreclose the remedies of COUNTY and/or GRANTOR in the event Defective Work in the deliverable cannot be readily measured at the time of delivery,

3.3 On the instant Project, CONTRACTOR maintains a conflict of interest policy consistent with 2 C.F.R. 200.318(c). Any potential conflict of interest must be disclosed in writing to GRANTOR and COUNTY before initiating any Work on the Project. CONTRACTOR is responsible to ensure all lower tier subconsultants, subcontractors and suppliers comply with this conflict of interest requirement.

3.4 CONTRACTOR acknowledges that funding for the Project is provided, in part, by GRANTOR utilizing monies furnished by the Federal government through Coronavirus State and Local Fiscal Recovery Funds ("SLFRF"). CONTRACTOR understands and agrees that all Work performed on the Project is subject to review and approval of GRANTOR and should Defective Work be found by GRANTOR, CONTRACTOR will work diligently to correct all Defective Work and same shall be considered part of CONTRACTOR's original scope of work.

3.5 CONTRACTOR understands and agrees that funds used on the Project may only be used in compliance with section 603(c) of the Social Security Act, the U.S. Department of the Treasury's regulations implementing that section, and guidance issued by the U.S. Department of the Treasury regarding same. CONTRACTOR has made itself familiar with the foregoing and represents it shall comply accordingly.

- 3.6 CONTRACTOR agrees to comply with the requirements of section 602 of the Social Security Act, regulations adopted by the U.S. Department of the Treasury pursuant to section 602(f) of the Social Security Act, and guidance issued by the U.S. Department of the Treasury regarding the same. CONTRACTOR further agrees to comply and ensure compliance by any subconsultant, subcontractor and supplier with all other applicable Federal statutes, regulations, and executive orders, and CONTRACTOR shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this Project.

#### **ARTICLE 4 - CONTRACT TIME.**

4.1 Time is of the essence under this Master Agreement.

A. Task 1 - Design and Permitting:

Design and Permitting's Contract Time shall be negotiated by COUNTY and CONTRACTOR and will be the subject of a future Contract Amendment to this Master Agreement. Work on Task 1 shall commence upon the date specified in the Notice to Proceed and, subject to authorized adjustments, shall be sufficiently complete for submission to the appropriate governmental authorities having jurisdiction over the Work for the issuance of the required permits or authorization for construction and the development of a Guaranteed Maximum Price for Task 2 Construction. The duration of Task 1 - Design and Permitting shall be incorporated into the future Contract Amendment in calendar days. CONTRACTOR agrees that Task 1 - Design and Permitting shall be prosecuted regularly, diligently and uninterrupted at such a rate of progress as will ensure 100% completion with permits obtained within the time specified. Failure to achieve timely, Final Completion of the Task 1 - Design and Permitting portion of this Master Agreement shall be regarded as a material breach of this Master Agreement.

B. Task 2 - Construction:

Construction shall be negotiated by COUNTY and CONTRACTOR as set forth herein and shall be the subject of a future Contract Amendment to this Master Agreement. Work on Task 2 shall commence upon the date specified in the Notice to Proceed, and subject to authorized adjustments shall reach Substantial Completion and Final Completion as set forth herein. Task 2 - Construction shall be prosecuted regularly, diligently and uninterrupted at such a rate of progress as will ensure 100% completion on the date set by COUNTY. Failure to achieve meet completion dates of Task 2 - Construction shall be regarded as a material breach of this Master Agreement.

#### **ARTICLE 5 - COMPENSATION.**

- 5.1 COUNTY shall pay CONTRACTOR for CONTRACTOR's performance of its obligations hereunder in the form of a separate Contract Sum for each of the tasks, i.e., Task 1: Design and Permitting, and Task 2 - Construction, as follows:

- A. Task 1. The Contract Sum for Task 1 shall be a lump sum amount plus authorized adjustments.

- B. Task 2. The Contract Sum shall be a lump sum amount plus authorized adjustments.
- 5.2 Full Compensation. Payment by COUNTY of the Contract Sum for each Task respectively shall be deemed full compensation to CONTRACTOR for its performance of the full scope of this Master Agreement so long as the Parties agree upon a Contract Sum and Contract Time for each of the Tasks separately, and neither Party terminates this Agreement as provided for herein. It is also the intent and agreement of the Parties that the Contract Sum for each of the Tasks, shall not exceed the lump sum amounts separately established for each respective portion of the Work, subject to additions and deductions by Change Order as provided for in this Master Agreement.
- 5.3 Contract Sums for the Tasks. At the time of execution of this Master Agreement, the Parties acknowledge and agree that there is insufficient information to establish a Contract Sum and Contract Time for each of the Tasks and further agree that the Parties shall negotiate same, subject to the termination rights set forth herein. Without limiting the foregoing, no cost savings that might be achieved on any Task shall be applied against cost overruns for any other Task. Absent grounds for an adjustment authorized hereunder, in the event additional labor, material, supply or equipment costs or expenses are necessary to complete either of the two (2) Tasks comprising the Project, such amounts shall be the sole responsibility of CONTRACTOR; it being acknowledged and agreed that the Contract Sums for each Task shall be the maximum amount COUNTY shall be required to pay for each Task respectively.
- 5.4 Negotiating Contract Sums.
- A. When COUNTY and CONTRACTOR agree that the Construction Documents (defined herein) are sufficiently completed to allow CONTRACTOR to perform Task 1 or sufficiently completed to allow CONTRACTOR to solicit bids for the performance of Task 2, the Parties shall commence and diligently proceed in good faith to negotiate a Contract Sum and Contract Time for that Task.
- B. If within thirty (30) days following the commencement of negotiations, COUNTY and CONTRACTOR agree upon a Contract Sum and Contract Time for any Task, (including any conditions applicable to the issuance of a Notice to Proceed), upon approval by the Marion County Board of County Commissioners, the Parties shall execute a Contract Amendment reflecting such agreement.
- C. If following the expiration of said thirty (30) day negotiation period COUNTY and CONTRACTOR cannot agree upon a Contract Sum and Contract Time for any Task:
- 1) The Parties may mutually agree to extend the time period for negotiation and continue therewith for a specified time or,
  - 2) Either Party, in its sole and absolute discretion may terminate this Master Agreement.
- D. Upon COUNTY's payment in full for all Work performed under the Contract Documents, CONTRACTOR shall grant COUNTY a limited license to use the Contract Documents in connection with the COUNTY's occupancy of the Project, conditioned on COUNTY's express agreement that in the event COUNTY modifies

or makes use of the Contract Documents without CONTRACTOR's express written consent, it is at COUNTY's sole risk and liability and without liability or legal exposure to CONTRACTOR or anyone working by or through CONTRACTOR. For the avoidance of doubt, following termination of this Agreement, COUNTY'S limited license to use the Contract Documents shall be conditioned upon COUNTY's payment in full of the amounts due to CONTRACTOR under the Contract Documents.

5.5 Termination.

- A. In the event that any Party desires to terminate this Master Agreement as set forth in Paragraph 5.4 above, such Party shall provide written notice to the other Party of its intent to do so before the expiration of the thirty (30) day Contract Sum and Contract Time negotiation period, and this Master Agreement shall terminate following completion by CONTRACTOR of the Task CONTRACTOR is then currently engaged to perform.
- B. Without limiting the foregoing, it is the intent of the Parties that if a Contract Sum and Contract Time for Task 2: Construction cannot be negotiated, COUNTY shall be provided with all Construction Documents. As a prerequisite to payment following a notice by either Party to terminate, CONTRACTOR shall provide COUNTY with written authorization in a form and substance acceptable to COUNTY from the appropriate design professionals authorizing COUNTY and its architects and engineers to use the Construction Documents. CONTRACTOR shall submit to COUNTY four (4) full size sets and one (1) electronic copy of the Construction Documents. Provided the terms and conditions of the preceding sentence are satisfied, following the termination of this Master Agreement, CONTRACTOR and any of its design professionals shall be released and fully discharged from all liabilities and obligations hereunder accruing subsequent to the date of such termination provided, however, CONTRACTOR shall remain subject to and responsible for all obligations accruing prior to such termination. CONTRACTOR shall obtain the written commitment of its design professionals at the time of execution of this Master Agreement that each of them will agree to contract with COUNTY to complete any unfinished portion of their design services directly for COUNTY and/or negotiate in good faith with COUNTY for any additional services reasonably required to complete the Project under the same terms and for the same price or rate agreed to with CONTRACTOR in the event this Master Agreement is terminated.

- 5.6 If COUNTY and CONTRACTOR cannot reach an agreement for CONTRACTOR to proceed with Task 2: Construction, COUNTY shall pay CONTRACTOR 100% of all its subconsultant design professional fees as set forth in the Contract Amendment's Schedule of Values for Task 1: Design and Permitting and 100% of CONTRACTOR'S fees for its General Conditions as set forth in the Schedule of Values for Task 1: Design and Permitting.

## ARTICLE 6 - CONTRACTOR'S RESPONSIBILITIES.

### 6.1 Task 1 - Design and Permitting.

- A. If an agreement is reached for CONTRACTOR to perform Task 1 - Design and Permitting, CONTRACTOR shall be responsible for the completion of the design and design related tasks including all permitting associated with the Project.
- B. Preliminary Evaluation.  
CONTRACTOR shall provide preliminary evaluation of COUNTY's program and Project budget requirements, each in terms of the other.
- C. Consultation.  
CONTRACTOR will schedule and attend regular meetings and will consult with COUNTY regarding site use and improvements and the selection of materials, construction systems and equipment.
- D. Extent of Responsibility.  
CONTRACTOR shall be responsible for the complete engineering for the Project.

### 6.2 Task 2 - Construction.

- A. If an agreement is reached for CONTRACTOR to perform Task 2 - Construction, CONTRACTOR shall be responsible for the construction and completion of the Project.
- B. Subcontractors and Suppliers.  
Should CONTRACTOR proceed with Task 2 - Construction, CONTRACTOR shall develop subcontractor interest in the Project by soliciting bids from qualified bidders for the Work and shall furnish COUNTY a list of Subcontractors and Suppliers who are to furnish labor, materials, supplies or equipment fabricated to a special design. The receipt of such list shall not require COUNTY to investigate the qualifications of proposed Subcontractors or Suppliers or manufacturers, nor shall it waive the right of COUNTY later to object to or reject any proposed Subcontractor, Supplier or manufacturer as it is acknowledged that such information is furnished by CONTRACTOR to COUNTY for informational purposes only.

### 6.3 Contract Sum.

- A. The Parties acknowledge that a separate Contract Sum will be negotiated for each of the Tasks, i.e., Task 1: Design and Permitting, and Task 2 - Construction,
- B. The Contract Sum for performing the Work under each Task constitutes the total compensation, subject to authorized adjustments, payable to CONTRACTOR for performing said Task. All duties, responsibilities and obligations assigned to or undertaken by CONTRACTOR shall be at its expense without change in the Contract Sum. The Contract Sum may be modified only as provided herein.
- C. The following apply solely as to Task 2 - Construction.
  - 1) The Contract Sum shall include all costs to complete the Work, including CONTRACTOR'S overhead and profit but only those taxes or other

governmental charges which were enacted at the time Task 2 - Construction was added to this Master Agreement by Contract Amendment.

- 2) If prior to the execution of this Master Agreement, CONTRACTOR was authorized to undertake certain Construction by COUNTY related to the Work and the Project, the costs charged by CONTRACTOR to COUNTY for those services shall be included within the Contract Sum for Task 2 - Construction and, if this Master Agreement is terminated after the completion of Task 1 - Design and Permitting, CONTRACTOR shall be entitled to a Change Order increasing its Contract Sum for Task 1 - Design and Permitting to equitably compensate it for any such Construction authorized in writing by COUNTY.
- 3) The Contract Sum for Task 2 shall be subject to additions and deductions as provided in the Contract Documents on account of changes in the Work and the date of Substantial Completion shall likewise be subject to adjustment as provided in the Contract Documents.
- 4) Regarding Task 2, COUNTY may set aside an Allowance amount for intended work and such amount shall not be included within the Contract Sum. The utilization of an Allowance amount shall be authorized by COUNTY in writing and CONTRACTOR shall not be entitled to apply for payment for any portion of any Allowance amount not authorized by COUNTY.
- 5) Regarding Task 2, COUNTY may set aside a Contingency sum to fund unforeseen or unexpected conditions and such sum shall not be included within the Contract Sum. The utilization of the Contingency sum shall be authorized by COUNTY in writing and CONTRACTOR shall not be entitled to apply for payment for any portion of the Contingency sum not authorized by COUNTY.

#### 6.4 Administration.

- A. Those portions of the Work that CONTRACTOR does not customarily perform with CONTRACTOR's own personnel shall be performed under subcontracts or by other appropriate agreements with CONTRACTOR. COUNTY may not object to CONTRACTOR obtaining bids from any qualified bidders. CONTRACTOR shall not be required to contract with anyone to whom CONTRACTOR has reasonable objection and CONTRACTOR shall not contract with anyone to whom COUNTY has reasonable objection.
- B. CONTRACTOR shall schedule and conduct meetings at which COUNTY, CONTRACTOR and appropriate Subcontractors and Suppliers can discuss the status of the Work. CONTRACTOR shall prepare and promptly distribute minutes of such meetings.
- C. CONTRACTOR shall provide monthly written reports to COUNTY and its designees on the progress of the Work. CONTRACTOR shall maintain a daily log

containing a record of weather, Subcontractors working on the site, the number of workers, the Work accomplished, problems encountered and other relevant data as COUNTY may reasonably require. The log shall be made available to COUNTY and its designees at any time and shall be attached to CONTRACTOR'S monthly report to COUNTY.

- D. CONTRACTOR shall develop a system of cost control accounting for the Work, including regular monitoring of actual costs for activities in progress and estimates for incomplete tasks and proposed changes.

#### 6.5 Design Responsibilities.

- A. The standard of care for the professional services performed as part of Task 1 by CONTRACTOR and its Sub-Consultants pursuant to this Agreement shall be the care and skill ordinarily used by members of the same profession practicing under similar conditions at the same time and locality of the Project.
- B. If the requisite conditions are satisfied, the Parties acknowledge that Section 558.0035, Florida Statutes (2022), may apply.
- C. CONTRACTOR shall determine the general scope, extent and character of the Work. CONTRACTOR shall review design documents consisting of preliminary Drawings, Specifications and other documents provided by COUNTY to fix and describe the size, quality and character of the Work, its engineering, structural, mechanical and electrical systems and the materials and other elements of the Work. Upon receipt of COUNTY's Notice to Proceed on Task 1 - Design and Permitting, CONTRACTOR shall prepare final Drawings, plans, schedules, Specifications, technical criteria, written descriptions, design data, diagrams and all Construction Documents setting forth in detail the requirements for construction of the Work and CONTRACTOR shall submit the same to COUNTY for approval prior to commencing construction of the Work. Upon approval, the final design shall become part of the Contract Documents, and shall supersede the preliminary Drawings and Specifications and all other preliminary components of the design of the Project. All final design documents, plans, reports, studies and other data prepared by CONTRACTOR shall bear the endorsement and seal of a duly licensed Florida Licensed Professional Engineer.
- D. After COUNTY'S acceptance of the final design documents, the original set of CONTRACTOR'S Drawings and Specifications shall be provided to COUNTY along with six (6) working sets of full-size prints and Specifications. With the original set of Drawings and Specifications, CONTRACTOR shall submit a final set of design computations. The computations shall be bound in an 8 1/2" by 11" format and shall be signed and sealed by the appropriate licensed Florida Licensed Professional Engineers.
- E. Upon satisfactory performance and payment of Task 1, all plans, Specifications, detail Drawings and other Drawings prepared in connection with the Project are and shall remain the property of COUNTY and are not to be used by CONTRACTOR on any other Project and shall be relinquished to COUNTY at Final Completion and payment, provided, however, that CONTRACTOR may maintain



one record set of As-Built Drawings. In the event CONTRACTOR and COUNTY are not able to negotiate a Contract Sum for Task 2: Construction as set forth in Paragraph 5.4 above and this Master Agreement is terminated, CONTRACTOR shall immediately provide electronic copies, in a format acceptable to COUNTY, of all plans and Specifications, cost estimates and any other documents prepared as part of the Design and Permitting. Such plans and Specifications shall be provided to COUNTY with an authorization in a form and substance acceptable to COUNTY from CONTRACTOR'S design subconsultants authorizing COUNTY and its architects and engineers to use the plans and Specifications and related documents for the Project.

- F. All Design and Permitting shall be performed by CONTRACTOR in conformance with the Contract Documents and CONTRACTOR shall follow generally accepted standards during performance of its obligations hereunder. If the Parties disagree as to whether CONTRACTOR has satisfied that duty, the provisions of Article 16 herein entitled "Dispute Resolution," shall apply.
- G. The Design and Permitting shall be performed by certified architects, registered engineers and other design professionals who are duly licensed by the State of Florida and who hold current licenses under the laws of the State of Florida to practice engineering or render other professional design services; all such design professionals shall be selected and retained by CONTRACTOR but approved and accepted by COUNTY.

6.6 Liability for use of Work for Intended Purpose.

As an inducement for COUNTY to enter into this Master Agreement, CONTRACTOR has represented an expertise in procuring professional design services for public utility projects and the construction of public utility projects by qualified and licensed design professionals and construction contractors. In reliance upon those representations, COUNTY hired CONTRACTOR to provide professional design services and construction services. CONTRACTOR shall be liable for negligent design or Defective construction, whether patent or latent, and/or any negligence, strict liability or breach of other legal duty, but only to the extent such liability is caused by the negligence or breach hereof by CONTRACTOR and/or other persons directly or indirectly employed or utilized by CONTRACTOR.

6.7 Shop Drawings and Samples.

- A. CONTRACTOR shall prepare and submit submittals or shop Drawings required for permitting to the local building authority having jurisdiction and shall furnish a copy to COUNTY.
- B. CONTRACTOR shall prepare and maintain shop Drawings and submittals on the construction site and make them available for review by COUNTY or its inspectors.
- C. Review of shop Drawings by COUNTY shall be for general conformance with the design intent and shall not relieve CONTRACTOR of the responsibility for the accuracy of such Drawings, or for the proper fitting and construction of the Work, or for the furnishing of material or Work required by the Agreement and not indicated on the shop drawings.

D. CONTRACTOR shall maintain and update shop Drawings and submittal logs and provide the logs to COUNTY with CONTRACTOR'S monthly progress reports.

.8 Supervision and Superintendence.

CONTRACTOR shall supervise and direct the Work competently and efficiently, devoting such attention thereto and applying CONTRACTOR'S best skill, attention and expertise. CONTRACTOR shall be solely responsible for and have control over the means, methods, techniques, sequences and procedures of construction. CONTRACTOR shall be responsible to ensure that the finished Work complies with the Contract Documents.

6.9 Project Management.

A. During the progress of on-site construction, CONTRACTOR shall provide full time competent Project supervision and any necessary assistants who shall not be replaced without written notice to COUNTY unless the superintendent proves to be unsatisfactory to CONTRACTOR or ceases to be in his employ. The superintendent will be CONTRACTOR'S representative at the site for the purpose of receiving and transmitting information but he/she shall not have authority to modify any portion of this Master Agreement or the Work as defined herein.

B. The day to day management of CONTRACTOR'S subcontractors and vendors, schedules and requests for payment shall be by a competent Project Manager to whom the superintendent shall report. The Project manager will conduct regularly scheduled Project meetings for the purpose of Project coordination and communication.

C. The Work shall proceed on the days and during the time periods allowed by the Marion County Code and, in the event CONTRACTOR wishes to perform work on other days or at other times, CONTRACTOR shall provide COUNTY forty-eight (48) hours advance notice.

6.10 Labor.

A. Construction services shall be performed by qualified construction contractors licensed to do business in the State of Florida and Suppliers who are selected and paid by CONTRACTOR.

B. CONTRACTOR shall hire and pay for competent, suitably qualified personnel to perform the Work required by the Contract Documents. CONTRACTOR shall not permit employment of unfit persons or persons not skilled in tasks assigned to them. CONTRACTOR shall at all times maintain good discipline and order at the site.

6.11 Materials.

A. Unless otherwise specified herein, CONTRACTOR shall furnish, pay for and assume full responsibility for all materials, equipment, transportation, machinery, tools, appliances, water, heat, utilities and all other facilities and services necessary for the furnishing, performance, testing, start-up and proper completion of the Work.

- B. CONTRACTOR warrants that all materials and equipment shall be of good quality and new, unless otherwise provided in the Contract Documents, and that the Work will be free from defects, whether patent or latent in nature. All materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned in accordance with the instructions of the applicable Supplier except as otherwise provided in the Contract Documents.

6.12 Concerning Subcontractors, Suppliers, and Others.

- A. Prior to the commencement of each part of the Work hereunder, CONTRACTOR shall furnish to COUNTY in writing the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for the relevant part of the Work. COUNTY shall advise CONTRACTOR, in writing within a reasonable time of any proposed person or entity to which COUNTY has a reasonable objection. CONTRACTOR shall not contract with a proposed person or entity to which COUNTY has made a reasonable and timely objection. If COUNTY has reasonable objection to a person or entity proposed by CONTRACTOR, CONTRACTOR shall propose another to whom COUNTY has no reasonable objection. CONTRACTOR shall not change a subcontractor, person or entity previously selected to perform a portion of the Work if COUNTY makes reasonable objection to such change except in cases where any such subcontractor, person or entity fails to honor its terms and conditions of their contracts with CONTRACTOR.
- B. CONTRACTOR shall be fully responsible to COUNTY for all acts and omissions of CONTRACTOR'S employees, Subcontractors, Suppliers and other persons directly or indirectly employed by its subcontractors, suppliers and of persons for whose acts any of them may be liable and any other persons and organizations performing or furnishing of the Work under a direct or indirect Contract with CONTRACTOR. Nothing in the Contract Documents shall create any contractual relationship between COUNTY and any such Subcontractor, Supplier or other person or organization performing any portion of the Work for CONTRACTOR, nor shall it create any obligations on the part of COUNTY to pay or ensure the payment of any moneys due any such Subcontractor, Supplier or other person or organization performing any portion of the Work for CONTRACTOR, except as may otherwise be required by laws and regulations.
- C. All Work performed for CONTRACTOR by a subcontractor shall be awarded by competitive bidding procedure in accordance with Florida law as well as the pertinent laws and regulations of GRANTOR and will be pursuant to an appropriate agreement between CONTRACTOR and the subcontractor which specifically binds the subcontractor to the applicable terms and conditions of the Contract Documents.
- D. CONTRACTOR shall obtain the written commitment of its subcontractors, subconsultants and design professionals that each of them will agree to contract with COUNTY to complete any unfinished portion of their design professional or construction services directly for COUNTY under the same terms and for the same price or rate agreed to with CONTRACTOR in the event this Master Agreement is terminated during the performance of any Task.

6.13 Patent Fees and Royalties.

CONTRACTOR shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product or device which is the subject of patent rights or copyrights held by others.

6.14 Permits.

CONTRACTOR shall obtain and pay for all permits and licenses for the Work. CONTRACTOR shall pay all governmental charges and inspection fees necessary with the exception that COUNTY shall pay its own municipal permit and inspection fees relating to the Work. No waiver is given with respect to any re-inspection fees or fees payable to any Board of Rules and Appeals. CONTRACTOR shall also pay for all re-inspection fees.

6.15 Laws and Regulations.

CONTRACTOR shall comply with and give all notices required by laws, ordinances, rules, regulations and lawful orders of public authorities having authority over the performance of the Work. COUNTY shall not be responsible for monitoring CONTRACTOR'S compliance with any laws and regulations. CONTRACTOR shall promptly notify COUNTY if the Contract Documents are observed by CONTRACTOR to be at variance therewith.

6.16 Risk of Loss; Title.

The risk of loss, injury or destruction shall be on CONTRACTOR until acceptance of the Work by COUNTY, except for goods and materials purchased for the Work by COUNTY for which COUNTY shall at all times bear all risk of loss. Title to the Work shall pass to COUNTY upon acceptance of the Work by COUNTY. Acceptance of the Work for Task 2 - Construction, shall occur at the time of Substantial Completion or Partial Utilization.

6.17 Taxes.

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 State of Florida and its political subdivisions. CONTRACTOR is responsible for reviewing the pertinent State statutes involving such taxes and complying with all requirements.

6.18 Use of Premises.

- A. CONTRACTOR shall confine equipment, the storage of materials and equipment and the operations of workers to the Project site and areas identified in and permitted by the Contract Documents and shall not unreasonably encumber the premises with equipment or other materials. CONTRACTOR shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof or of any land or areas contiguous thereto, resulting from the performance of the Work. Should any claim be made against COUNTY by any such owner or occupant because of the performance of the Work, CONTRACTOR shall promptly resolve the claim with such other Party by agreement or otherwise. The indemnification provided elsewhere in this Master Agreement specifically applies to claims arising out of CONTRACTOR'S use of the premises.
- B. During the progress of the Work, CONTRACTOR shall keep the premises free from accumulations of waste materials, rubbish and other debris resulting from the Work. During the construction period on a weekly basis, CONTRACTOR shall

remove all waste materials, rubbish and debris from and about the Project area. At the completion of the Project, CONTRACTOR shall remove remaining waste materials, rubbish and debris premises as well as all tools, appliances, equipment and machinery, and surplus materials, and shall leave the site clean and in a condition that is acceptable in the sole reasonable discretion of COUNTY.

6.19 Access to Work.

CONTRACTOR shall provide COUNTY, COUNTY'S consultants, representatives, personnel, and independent testing laboratories and governmental agencies with jurisdictional interests with access to the Work at reasonable times for their observation, inspection and testing. CONTRACTOR shall provide them proper and safe conditions for such access and advise them of CONTRACTOR'S site safety procedures and programs so that they may comply therewith.

6.20 Safety and Protection.

- A. CONTRACTOR shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work to prevent damage, injury or loss to persons and property at the site or adjacent thereto.
- B. CONTRACTOR shall comply with all applicable laws and regulations of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss.

6.21 Indemnification.

- A. Task 1 - Design, pursuant to Section 725.08, Florida Statutes (2022).  
Regarding Task 1 - Design, CONTRACTOR shall indemnify COUNTY and its elected officials and employees against, and hold COUNTY and its elected officials and employees harmless from, all liabilities, damages, losses, and costs, including but not limited to reasonable attorneys' fees, which COUNTY or its elected officials and employees may sustain, or which may be asserted against COUNTY or its elected officials and employees, arising out of the negligence, recklessness, or intentionally wrongful conduct of CONTRACTOR and other persons employed or utilized by CONTRACTOR, in the performance of this Master Agreement, including but not limited to property damage, harm or personal injury, including death, to the extent allowed by Section 725.08, Florida Statutes (2022), and to the extent that the services rendered pursuant to this Master Agreement were services of a "Design Professional" as defined in Section 725.08(4), Florida Statutes (2022).
- B. Task 2 - Construction.  
Regarding Task 2 - Construction, CONTRACTOR shall indemnify and hold harmless COUNTY, its officers and employees, from liabilities, damages, and losses, including, but not limited to, property damage, harm or personal injury to third persons, such as death, and costs, including but not limited to reasonable attorneys' fees, which COUNTY, its officers or employees may sustain, or which may be asserted against COUNTY or its officers, or employees, arising out of the activities contemplated by this Master Agreement to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of CONTRACTOR and persons employed or utilized by CONTRACTOR in the performance of this Master Agreement.

- C. This Paragraph 6.21 shall not be construed in any way to alter COUNTY's waiver of sovereign immunity or the limits established in Section 768.28, Florida Statutes (2022).
- D. CONTRACTOR expressly understands and agrees that any insurance protection required by this Master Agreement or otherwise provided by CONTRACTOR shall in no way limit the responsibility to indemnify, keep and save harmless and defend COUNTY and its officers, board members, employees, agents, and instrumentalities.
- E. The indemnification obligation under this Article shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for CONTRACTOR and/or any subcontractor or subconsultants under worker's compensation acts, disability benefit acts, or other employee benefit acts.
- F. In the event that any claims are brought or actions are filed against COUNTY with respect to the indemnity contained herein, CONTRACTOR agrees to defend against any such claims or actions regardless of whether such claims or actions are rightfully or wrongfully brought or filed. CONTRACTOR agrees that COUNTY may select the attorneys to appear and defend such claims or actions on behalf of COUNTY. CONTRACTOR further agrees to pay the reasonable attorneys' fees and costs incurred by those attorneys selected by COUNTY to appear and defend such claims or actions on behalf of COUNTY. COUNTY, at its sole option, shall have the sole authority for the direction of the defense, and shall be the sole judge of the acceptability of any compromise or settlement of any claims or actions against COUNTY.
- G. To the extent this indemnification clause does not comply with Chapter 725, Florida Statutes, as may be amended, this provision and all aspects of the Contract Documents shall hereby be interpreted consistent with the Parties' intention for the indemnification clause and Contract Documents to comply with Chapter 725, Florida Statutes (2022) as may be amended.

6.22 Patent and Copyright Indemnification.

CONTRACTOR agrees to indemnify, defend, save and hold harmless COUNTY, its officers, agents and employees, from all damages, liabilities, losses, claims, fines and fees, and from any and all suits and actions of every kind that may be brought against COUNTY, its officers, agents and employees, on account of any claim for the infringement or violation of any and all copyrights or patent rights claimed by any person, firm, or corporation, except (i) when a particular design process or product is specified by the COUNTY; or (ii) when such suit or claim for infringement of any patent rights arise from modifications to the Project by County after acceptance of the Project.

6.23 Survival of Obligations.

All representations, indemnifications, warranties and guarantees made in, required by, or given in accordance with this Master Agreement, including but not limited to those

specified in this Article 6, as well as all continuing obligations indicated in the Contract Documents, shall survive completion, final payment and acceptance of the Work.

**6.24 Correction or Removal of Defective Work.**

If required by COUNTY, CONTRACTOR shall promptly and as directed, either correct all Defective Work, whether or not fabricated, installed or completed, or, if the Work has been rejected by COUNTY, remove it from the site and replace it with non-Defective Work. CONTRACTOR shall bear all direct costs of such correction or removal (including but not limited to fees and charges of engineers, architects and other construction professionals) made necessary thereby. Such correction or removal may be required as part of the performance under Article 9 herein entitled "Warranties, Tests and Inspections; Corrections of Defective Work."

**ARTICLE 7 - COUNTY'S RESPONSIBILITIES.**

- 7.1 COUNTY shall promptly furnish all data required of COUNTY under the Contract Documents so as not to delay or impede the progress of the Work.
- 7.2 Except for permits and fees which are the responsibility of CONTRACTOR, COUNTY shall secure and pay for necessary approvals, easements, assessments and charges required for the design, construction, use or occupancy of permanent structures or permanent changes in existing facilities.
- 7.3 COUNTY shall pay CONTRACTOR in strict accordance with this Master Agreement and Florida law. CONTRACTOR acknowledges that COUNTY's obligations and responsibilities for payment and non-payment under this Master Agreement, including, but not limited to, the accrual of interest thereon if any, are governed by Chapter 218, Part VII, Florida Statutes, Local Government Prompt Payment Act (2022).

**ARTICLE 8 - BONDS AND INSURANCE.**

**8.1 Payment and Performance Bonds.**

- A. Should the Parties agree upon Contract Sum and Contract Time for Task 2 - Construction, CONTRACTOR shall furnish Performance and Payment Bonds for the full Contract Sum as amended by Change Order as security for the faithful performance and payment of all CONTRACTOR's obligations under this Master Agreement. The Performance Bond shall remain in effect at least until one (1) year after the date of acceptance by COUNTY.
- B. If the surety on any Bond furnished by CONTRACTOR is declared a bankrupt or becomes insolvent or if its right to transact business is terminated in any State where any part of the Work is located, CONTRACTOR shall within seven (7) days after receipt of written request by COUNTY, substitute another Bond and Surety acceptable to COUNTY.
- C. Bonds issued shall be in compliance with Section 255.05, Florida Statutes (2022).

8.2 Insurance.

A. Maintain.

CONTRACTOR shall purchase and maintain the insurance required under this Article 8. Such insurance shall include the specific amounts coverage set out herein and be written for not less than the limits of liability and coverage provided herein or as required by Law, whichever are greater. Insurance shall be maintained continuously during the term of this Master Agreement up to the date of Final Completion, but CONTRACTOR's liabilities under this Master Agreement shall not be deemed limited in any way to the insurance coverage required. Further, CONTRACTOR shall require its subcontractors, subconsultants, successors, transferees, and assignees, if any, to maintain insurance coverage of such types and with such terms and limits as described herein. Compliance with the insurance provisions in this Master Agreement are a condition of all contracts related to this Master Agreement.

B. No Waiver.

Neither approval by COUNTY, nor failure to disapprove by COUNTY, the insurance furnished by CONTRACTOR, shall relieve CONTRACTOR of its full responsibility for the performance of any obligation, including CONTRACTOR's indemnification of COUNTY under this Master Agreement.

C. Insurance.

Until Project completion and all Work accepted by COUNTY, insurance policies shall be with a company or companies authorized to do business in the State of Florida. COUNTY shall be notified if any policy limit has eroded to one half its annual aggregate. CONTRACTOR shall provide a Certificate of Insurance, issued by a company authorized to do business in the State of Florida and with an A.M. Best Company rating of at least A-. All policies must show the "Marion County, a political subdivision of the State of Florida" as an Additional Insured except for the workers compensation and professional liability policies. The Procurement Services Director should be shown as the Certificate Holder, and the Certificate should provide for thirty (30) day cancellation notice to Procurement Services Director's address, as set forth in Article 17 herein entitled "Notices, Computation of Time," with policies for the following:

- 1) General Liability Insurance, with combined single limits of not less than \$1,000,000, per occurrence shall be provided and maintained by CONTRACTOR. The only aggregate limit acceptable is a "project aggregate" and the Certificate must show an appropriate endorsement (ISO CG 2501 or equal);
- 2) Business Auto Liability Insurance shall be provided by CONTRACTOR with combined single limits of not less than \$1,000,000.00 per occurrence to include bodily injury and property damage liability arising out of operation, maintenance or use of any auto, including owned, all hired and non-owned automobiles;
- 3) Workers' Compensation shall be purchased and maintained by the bidder for statutory requirements and employer's liability limits of at least \$1,000,000 each accident and \$1,000,000 each employee and \$1,000,000 policy limit for disease. COUNTY need not be named as an Additional Insured, but a "subrogation waiver endorsement" is required.



- 4) Professional Design Liability Insurance (Errors and Omissions).  
CONTRACTOR shall require each of its subconsultant design professionals to procure and to maintain Professional Design Liability Insurance (Errors and Omissions) in the minimum amount of \$1,000,000 per claim
  - a) It is recommended that the Professional Design Liability Insurance policy coverage extend for up to three (3) years beyond the conclusion of the Project.
- 5) Subcontractor's Public Liability and Property Damage Insurance and Vehicle Liability Insurance.  
CONTRACTOR shall either require each of its Subcontractors to procure and to maintain Subcontractor's Public Liability and Property Damage Insurance and Vehicle Liability Insurance of the type in the amounts specified herein for like insurance, or insure the activities of its Subcontractors in CONTRACTOR's own policy, in like amount.

8.3 Builder's Risk.

This insurance shall be provided and paid for by CONTRACTOR. The insurance shall be of the "all risks" type, shall be written in completed value form, and shall protect CONTRACTOR, COUNTY, and COUNTY'S designees against risks of damage to buildings, structures, and materials and equipment. The amount of such insurance shall be not less than the insurable value of the Work at completion. Builder's risk insurance shall provide for losses to be payable to CONTRACTOR, COUNTY, and any designee of COUNTY as their interests may appear. The policy shall contain a provision that in the event of payment for any loss under the coverage provided, the insurance company shall have no rights of recovery against CONTRACTOR, COUNTY or any designee of COUNTY. The Builder's Risk policy shall insure against all risks of direct physical loss or damage to property from any external cause including flood and earthquake.

8.4 COUNTY's Liability and Insurance.

COUNTY shall not be responsible for purchasing and maintaining any insurance to protect the interests of CONTRACTOR, its subcontractors or others regarding the Work. COUNTY specifically reserves all statutory and common law rights and immunities and nothing herein is intended to limit or waive the same including, but not limited to, the procedural and substantive provisions of Section 768.28, Florida Statutes (2022) and Section 95.11, Florida Statutes (2022).

**ARTICLE 9 - WARRANTIES; TESTS AND INSPECTIONS; CORRECTION OF DEFECTIVE WORK.**

9.1 Warranty and Guarantee.

CONTRACTOR warrants and guarantees to COUNTY that all Work will be in accordance with the Contract Documents and will not be Defective. Prompt notice of defects known to COUNTY shall be given to CONTRACTOR. All Defective Work, whether or not in place, may be rejected, corrected, or accepted as provided in this Article.

9.2 Access to Work.

COUNTY, its designees, testing agencies and governmental agencies with jurisdictional interests shall have access to the Work at reasonable times for their observation,

inspections, and testing. CONTRACTOR shall provide proper and safe conditions for such access.

9.3 Tests and Inspections.

- A. CONTRACTOR shall give COUNTY and its designees timely notice of readiness of the Work for all required inspections, tests or approvals.
- B. If Laws or Regulations of any public body having jurisdiction other than COUNTY require any Work to specifically be inspected, tested or approved, CONTRACTOR shall pay all costs in connection therewith. CONTRACTOR shall also be responsible for and shall pay all costs in connection with any inspection or testing required in connection with COUNTY's or its designee's acceptance of a Supplier of materials or equipment proposed as a substitution or (or-equal) to be incorporated in the Work, or of materials or equipment submitted for review prior to CONTRACTOR'S purchase thereof for incorporation in the Work. The cost of all inspections, tests and approvals in addition to the above which are required by the Contract Documents shall be paid by COUNTY (unless otherwise specified).
- C. COUNTY will make, or have made such inspections and test as COUNTY deems necessary to see that the Work is being accomplished in accordance with the requirements of the Contract Documents. Unless otherwise specified, the cost of such inspection and testing will be borne by COUNTY. In the event such inspections or tests reveal non-compliance with the requirements of the Contract Documents, CONTRACTOR shall bear the cost of corrective measures deemed necessary by COUNTY, as well as the cost of subsequent re-inspection and retesting. Neither observations by COUNTY nor inspections, tests or approvals by others shall relieve CONTRACTOR from CONTRACTOR's obligation to perform the Work in accordance with the Contract Documents.
- D. All inspections, tests or approvals other than those required by laws or regulations of any public body having jurisdiction shall be performed by organizations acceptable to COUNTY and CONTRACTOR.
- E. If any Work (including the Work of others) that is to be inspected, tested, or approved is covered without written concurrence of COUNTY, it must, if requested by COUNTY, be uncovered for observation. Such uncovering shall be at CONTRACTOR's expense unless CONTRACTOR has given COUNTY timely notice of CONTRACTOR's intention to perform such test or to cover the same and COUNTY has not acted with reasonable promptness in response to such notice.
- F. If any Work is covered contrary to the written request of COUNTY, it must, if requested by COUNTY, be uncovered for COUNTY'S observation and replaced at CONTRACTOR's expense.
- G. If COUNTY considers it necessary or advisable that covered Work be observed by COUNTY or inspected or tested by others, CONTRACTOR, at COUNTY'S request, shall uncover, expose or otherwise make available for observation, inspection, or testing as COUNTY may require, that portion of the Work in question, furnishing all necessary labor, material, and equipment. If it is found that

such Work is Defective, CONTRACTOR shall bear all direct and indirect costs and damages of such uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction, including but not limited to fees and charges of engineers, architects, attorneys and other construction professionals. However, if such Work is not found to be Defective, CONTRACTOR shall be allowed an increase in the Contract Sum or an extension of the Contract Time, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, and reconstruction; and, if the Parties are unable to agree as to the amount or extent thereof, CONTRACTOR may make a claim therefore as provided herein.

9.4 COUNTY May Stop the Work.

- A. If the Work is Defective, or CONTRACTOR fails to perform Work in such a way that the completed Work will conform to the Contract Documents, COUNTY may order CONTRACTOR to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of COUNTY to stop the Work shall not give rise to any duty on the part of COUNTY to exercise this right for the benefit of CONTRACTOR or any other Party.
- B. CONTRACTOR shall respond in writing to the issues giving rise to any stop-work order by COUNTY promptly and, in no event, later than five (5) calendar days from issuance of the stop-work order. Any work by CONTRACTOR to remove the basis for the stop-work order shall not entitle CONTRACTOR to compensation or additional time under Article 11 herein entitled "Changes in the Work" or Article 14 herein entitled "Termination of the Master Agreement."

9.5 One Year Correction Period.

- A. If within one (1) year after the date of acceptance by COUNTY or such longer period of time as may be prescribed by laws or regulations or by the terms of any applicable special guarantee required by the Contract Documents or by any specific provision of the Contract Documents, any Work is found to be Defective, CONTRACTOR shall promptly, without cost to COUNTY and in accordance with COUNTY'S written notification, either correct such Defective Work, or, if it has been rejected by COUNTY, remove it from the site and replace it with non-Defective Work. If CONTRACTOR does not promptly comply with the such notification, or in an emergency where delay would cause serious risk of loss or damage, COUNTY may have the Defective Work corrected or the rejected Work removed and replaced, and all direct, and indirect costs and damages of such removal and replacement including but not limited to fees and charges of engineers, architects, attorneys and other construction professionals will be paid by CONTRACTOR.
- B. Where Defective Work (and damage to other Work resulting therefrom) has been corrected, removed or replaced, the correction period hereunder, with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed and accepted by COUNTY.
- C. Should COUNTY elect to Partially Utilize any portion of the Work before Substantial Completion of the Task 2 - Construction, the one (1) year correction

period and any warranty with respect to such Work will commence at such time as COUNTY begins to utilize the Work.

9.6 Acceptance of Defective Work.

If, instead of requiring correction or removal and replacement of Defective Work, COUNTY prefers to accept the Work, COUNTY may do so. CONTRACTOR shall bear all direct and indirect costs attributable to COUNTY'S evaluation of and determination to accept such Defective Work. If any such acceptance occurs prior to final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work, and COUNTY shall be entitled to an appropriate decrease in the Contract Sum.

**ARTICLE 10 - CHANGES TO OR EXTENSIONS OF CONTRACT TIME.**

10.1 General.

A. The Contract Time may only be changed by a Change Order. Any claim for an extension of the Contract Time shall be based on written notice delivered by CONTRACTOR to COUNTY promptly [but in no event later than thirty (30) days] after the occurrence of the event giving rise to the claim and stating the general nature of the claim. Notice of the extent of the claim with supporting data shall be delivered within sixty (60) days after such occurrence (unless COUNTY allows an additional period of time to ascertain more accurate data in support of the claim) and shall be accompanied by CONTRACTOR'S written statement that the adjustment claimed is the entire adjustment to which CONTRACTOR has reason to believe it is entitled as a result of the occurrence of said event. All claims for adjustment in the Contract Time shall be determined initially by COUNTY and if COUNTY and CONTRACTOR cannot agree upon an appropriate extension of time, the claim shall be resolved in accordance with Article 16 herein entitled "Dispute Resolution." No claim for an adjustment in the Contract Time will be valid if not submitted in accordance with the requirements of this Paragraph 10.1.

B. The Contract Time will be extended in an amount equal to time lost due to delays beyond the control of CONTRACTOR provided that such time lost affects the critical path as shown on the CPM schedule if a claim is made therefore as provided in Paragraph 10.1. Such delays shall include: acts or neglect by the OWNER or others performing additional Work or by acts of God or of the public enemy, fire, floods, epidemics, quarantine restrictions, strikes, labor disputes, sabotage or material shortages or freight embargoes.

C. All time limits stated in the Contract Documents are of the essence of this Master Agreement.

10.2 Extensions of Time for Delay Due to Inclement Weather.

A. Contract Time may be extended by COUNTY because of delays in the completion of the Work due to unusually severe weather, provided that CONTRACTOR shall, within ten (10) days of the beginning of any such delay, notify COUNTY in writing of the cause of delay and request an extension of Contract Time. COUNTY will ascertain the facts and the extent of the delay and extend the Contract Time when, in its judgment, the findings of the fact justify such an extension.

- B. CONTRACTOR shall base its construction schedule upon the inclusion of twenty (20) calendar days of inclement weather during the Contract Time. CONTRACTOR shall be not be entitled to an extension of the Contract Time due to inclement weather until after the said number of days of inclement weather have occurred. However, no reduction in Contract Time will be made if said number of days of inclement weather is not reached.

## **ARTICLE 11 - CHANGES IN THE WORK.**

### **11.1 General.**

- A. Without invalidating this Master Agreement and without notice to any surety, COUNTY may at any time or from time to time, order additions, deletions or revisions in the Work; these will be authorized by a written Field Order and/or a Change Order issued by COUNTY. Upon receipt of any such document, CONTRACTOR shall promptly proceed with the Work involved which will be performed under the applicable conditions of the Contract Documents.
- B. If COUNTY and CONTRACTOR are unable to agree as to the extent, if any, of an increase or decrease in the Contract Sum or an extension or shortening of the Contract Time that should be allowed as a result of a Field Order, a claim may be made therefore as provided in this Master Agreement.
- C. CONTRACTOR shall not be entitled to an increase in the Contract Sum nor an extension of the Contract Time with respect to any Work performed that is not required by the Contract Documents as amended, modified or supplemented by Change Order, except in the case of an emergency and except in the case of uncovering Work as provided in Article 9 herein entitled "Warranties; Tests and Inspections; Correction of Defective Work."
- D. COUNTY and CONTRACTOR shall execute appropriate Change Orders covering:
  - 1) Changes in the Work which are ordered by COUNTY;
  - 2) Changes required because of acceptance of Defective Work as provided in Article 9 herein entitled "Warranties; Tests and Inspections; Correction of Defective Work";
  - 3) Changes in the Contract Sum or Contract Time which are agreed to by the Parties; or
  - 4) Any other changes agreed to by the Parties.
  - 5) If notice of any change to a surety is required by the provisions of any Bond, the giving of any such notice will be CONTRACTOR's responsibility and the amount of each applicable Bond shall be adjusted accordingly.

### **11.2 Allowable Quantity Variations.**

- A. In the event of an increase or decrease in bid item quantity of a unit price contract, the total amount of Work actually done or materials or equipment furnished shall be paid for according to the unit price established for such Work under the Contract Documents, wherever such unit price has been established; provided, that an adjustment in the Contract Sum may be made for changes which result in an increase or decrease in the quantity of any unit price bid item of the Work in excess

of twenty-five (25) percent.

- B. In the event a part of the Work is to be entirely eliminated and no lump sum or unit price is named in the Contract Documents to cover such eliminated Work, the price of the eliminated Work shall be agreed upon in writing by COUNTY and CONTRACTOR. If COUNTY and CONTRACTOR fail to agree upon the price of the eliminated Work, said price shall be determined in accordance with the provisions of Article 16 entitled "Dispute Resolution."

## **ARTICLE 12 - CHANGE IN CONTRACT SUM.**

### **12.1 General.**

- A. The Contract Sum constitutes the total compensation payable to CONTRACTOR for performing the Work. All duties, responsibilities and obligations assigned to or undertaken by CONTRACTOR shall be at its expense without change in the Contract Sum.
- B. The Contract Sum may only be changed by a Change Order. Any claim for an increase in the Contract Sum shall be based on written notice delivered by CONTRACTOR to COUNTY promptly [but in no event later than thirty (30) days] after the occurrence of the event giving rise to the claim and stating the general nature of the claim. Notice of the amount of the claim with supporting data shall be delivered within sixty (60) days after such occurrence (unless COUNTY allows an additional period of time to ascertain more accurate data in support of the claim) and shall be accompanied by CONTRACTOR's written statement that the amount claimed covers all known amounts (direct, indirect, and consequential) to which CONTRACTOR is entitled as a result of the occurrence of said event. All claims for adjustment in the Contract Sum shall be determined by COUNTY in accordance with the provisions of Article 16 herein entitled "Dispute Resolution," if COUNTY and CONTRACTOR cannot otherwise agree on the amount involved. No claim for an adjustment in the Contract Sum will be valid if not submitted in accordance with this Paragraph 12.1.
- C. The value of any Work covered by a Change Order or of any claim for an increase or decrease in the Contract Sum shall be determined in one of the following ways:
  - 1) Where the Work involved is covered by unit prices contained in the Contract Documents, by application of unit prices to the quantities of the items involved.
  - 2) By mutual acceptance of a lump sum, which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 12.4.
  - 3) On the basis of the Cost of Work (determined as provided in Paragraphs 12.2 and 12.3) plus a CONTRACTOR's fee for overhead and profit (determined as provided in Paragraph 12.4).

### **12.2 Cost of Work (Based on Time and Materials).**

#### **A. General.**

The term "Cost of Work" means the sum of all costs necessarily incurred and paid by CONTRACTOR for labor, materials, supplies and equipment in the proper performance of any extra Work. Except as otherwise may be agreed to in writing.

by COUNTY, such costs shall be in amounts no higher than those prevailing in the locality of the Project. Whenever any extra Work is in progress, for which the definite price has not been agreed on in advance, CONTRACTOR shall each day, report to COUNTY the amount and cost of the labor and material used, and any other expense incurred in such extra Work on the preceding day and no claim for compensation for such extra Work will be allowed unless such report shall have been made.

B. Labor.

The cost of labor used in performing any extra Work by CONTRACTOR, a subcontractor or other forces will be the sum of the following:

- 1) The actual wages paid plus any employer payments to, or on behalf of workers for fringe benefits including health and welfare, pension, retirement, vacation, and similar purposes. The cost of labor may include the wages paid to foremen and superintendents for superintendence of the work.
- 2) All payments imposed by State and Federal laws including, but not limited to, workers compensation insurance unemployment, Medicare and social security payments.
- 3) The amount paid for subsistence and travel required by collective bargaining agreements or in accordance with the regular practice of the employer.
- 4) At the beginning of the extra Work and as later requested by COUNTY, CONTRACTOR shall furnish COUNTY proof of labor compensation rates being paid.

C. Materials.

The cost of materials used in performing any extra Work will be the cost to the purchaser, whether CONTRACTOR or Subcontractor from the Supplier thereof, except as the following are applicable:

- 1) Trade discounts available to the purchaser shall be credited to COUNTY notwithstanding the fact that such discounts may not have been taken by CONTRACTOR.
- 2) For materials secured by other than a direct purchase and direct billing to the purchaser, the cost shall be deemed to be the price paid to the actual Supplier as determined by COUNTY. Markup for brokerage except for actual costs incurred in the handling of such materials will not be allowed.
- 3) Payment for materials from sources owned wholly or in part by the purchaser shall not exceed the price paid by the purchaser for similar materials from said sources on extra Work items or the current wholesale price for such materials delivered to the Work site, whichever price is lower.
- 4) If in the opinion of COUNTY, the cost of material is excessive, or if CONTRACTOR does not furnish satisfactory evidence of the cost of such material, then the cost shall be deemed to be the lowest current wholesale price for the quantity concerned delivered to the Work site less trade discount. COUNTY reserves the right to furnish materials for the extra Work and no claim shall be made by CONTRACTOR for costs and profit on such materials.

D. Equipment.

For any extra Work, CONTRACTOR will be paid for the use of equipment as stated in the latest edition of the "Compilation of Rental Rates for Construction Equipment" by Associated Equipment Distributors. Such rental rate will be used to compute payments for equipment whether the equipment is under CONTRACTOR's control through direct ownership, leasing, renting, or another method of acquisition. The rental rate to be applied for use of each item of equipment shall be the rate resulting in the least total cost to COUNTY for the total period of use. CONTRACTOR may furnish cost data which might assist COUNTY in the establishment of the rental rate.

- 1) All equipment shall, in the opinion of COUNTY, be in good working condition and suitable for the purpose for which the equipment is to be used.
- 2) Before construction equipment is used on the extra Work, CONTRACTOR shall plainly stencil or stamp an identifying number thereon at a conspicuous location, and shall furnish to COUNTY, in duplicate, a description of the equipment and its identifying number.
- 3) Unless otherwise specified, manufacturer's ratings and manufacturer-approved modifications shall be used to classify equipment for the determination of applicable rental rates. Equipment which has no direct power unit shall be powered by a unit of at least the minimum rating recommended by the manufacturer.
- 4) Individual pieces of equipment or tools having a replacement value of \$100 or less, whether or not consumed by use, shall be considered to be small tools and no payment will be made therefore.
- 5) Rental time will not be allowed while equipment is inoperative due to breakdowns.

E. Equipment on the Work Site.

For any extra Work, the rental time to be paid for equipment on the Work site shall be the time the equipment is in productive operation on the extra Work being performed and, in addition, shall include the time required to move the equipment to the location of the extra Work and return it to the original location or to another location requiring no more time than that required to return it to its original location; except, that moving time will not be paid if the equipment is used on other than the extra Work, even though located at the site of the extra Work. Loading and transporting costs will be allowed, in lieu of moving time, when the equipment is moved by means other than its own power, except that no payment will be made for loading and transporting costs when the equipment is used at the site of the extra Work on other than the extra Work. The following shall be used in computing the rental time of equipment on the Work site.

- 1) When hourly rates are listed, any part of an hour less than 30 minutes of operation shall be considered to be 1/2-hour of operation, and any part of an hour in excess of 30 minutes will be considered one hour of operation.
- 2) When daily rates are listed, any part of a day less than 4 hours operation shall be considered to be 1/2-day of operation. When owner-operated equipment is used to perform extra Work to be paid for on a time and materials basis, CONTRACTOR will be paid for the equipment and



operator, as set forth in Paragraphs 12.2(E)(3) to 12.2(E)(5) inclusive which follow.

- 3) Payment for the equipment will be made in accordance with the provisions of this Paragraphs 12.2.
- 4) Payment for the cost of labor and subsistence or travel allowance will be made at the rates paid by CONTRACTOR to other workers operating similar equipment already on the Work site, or in the absence of such labor, established by collective bargaining agreements for the type of workmen and location of the extra Work, whether or not the operator is actually covered by such an agreement. A labor burden surcharge will be added to the cost of labor described herein in accordance with the provisions of Paragraph 12.2(B), which surcharge shall constitute full compensation for payments imposed by State and Federal laws and all other payments made to or on behalf of workers other than actual wages.
- 5) To the direct cost of equipment rental and labor, computed as provided herein, will be added the allowances for equipment rental and labor as provided in Paragraph 12.4.

### 12.3 Special Services.

A. For any extra Work, Special Work or services are defined as that Work characterized by extraordinary complexity, sophistication, or innovation or a combination of the foregoing attributes which are unique to the construction industry. The following may be considered by COUNTY in making estimates for payment for special services:

- 1) When COUNTY and CONTRACTOR, by agreement, determine that a special service or Work is required which cannot be performed by the forces of CONTRACTOR or those of any of its subcontractors, the special service or Work may be performed by an entity especially skilled in the Work to be performed. After validation of invoices and determination of market values by COUNTY, invoices for special services or Work based upon the current fair market value thereof may be accepted without complete itemization of labor, material and equipment rental costs.
- 2) When CONTRACTOR is required to perform Work necessitating special fabrication or machining process in a fabrication or a machine shop facility away from the job site, the charges for that portion of the Work performed at the off-site facility may, by agreement, be accepted as a special service and accordingly, the invoices for the Work may be accepted without detailed itemization.
- 3) All invoices for special services will be adjusted by deducting all trade discounts offered or available, whether the discounts were taken or not. In lieu of the allowances for overhead and profit specified in Paragraph 12.4, an allowance of five (5) percent will be added to invoices for special services.
- 4) All Work performed shall be subject to all of the provisions of the Contract Documents and CONTRACTOR's sureties shall be bound with reference thereto as under the original Agreement. Copies of all amendments to surety bonds or supplemental surety bonds shall be submitted to COUNTY for review prior to the performance of any Work hereunder.

12.4 CONTRACTOR's Overhead and Profit.

- A. For any extra Work ordered on the basis of time and materials, CONTRACTOR will be paid for the actual necessary Cost of the Work as set forth above, plus allowances for overhead and profit. For extra Work involving a combination of increases and decreases in the Work the actual necessary cost will be the arithmetic sum of the additive and deductive costs. The allowance for overhead and profit shall include full compensation for taxes, job site general conditions, excluding superintendence, home office expense, and all other items of expense or cost not included in the cost of labor, materials, or equipment provided for under Paragraphs 12.2 herein including extended job site overhead, except for superintendence, and home office overhead. The allowance for overhead and profit will be made in accordance with the following schedule:

<u>Actual Necessary Cost</u>	<u>Overhead and Profit Allowance</u>
Labor	fifteen (15) percent
Materials or equipment	fifteen (15) percent

- B. For any extra Work, CONTRACTOR will be entitled to charge and receive payment for its actual costs (without any overhead or profit), for any additional Bond or insurance premiums.
- C. It is understood that labor, materials, and equipment may be furnished by CONTRACTOR or by a subcontractor on behalf of CONTRACTOR. When all or any part of the Work is performed by a subcontractor, the allowance specified herein shall be applied to the actual labor, materials and equipment costs of the subcontractor along with the specified percentages for the subcontractor's overhead and profit, to which CONTRACTOR may add five (5) percent for CONTRACTOR'S overhead and profit. Regardless of the number of hierarchical tiers of subcontractors, the five (5) percent increase above the subcontractor's total cost which includes the allowances for overhead and profit specified herein may be applied one time only for each separate Work transaction.

12.5 Excluded Costs.

- A. The term "Cost of the Work", as associated with Construction, shall not include any of the following:
- 1) Payroll costs and other compensation of CONTRACTOR's officers, executives, principals (of partnership and sole proprietorships) general managers, engineers, architects, estimators, attorneys, auditors accountants, purchasing and contracting agents, expeditors, time keepers, clerks, and other personnel employed by CONTRACTOR whether at the site or in CONTRACTOR's principal or a branch office for general administration of the Work and not specifically covered by Paragraph 12.2.2 or 12.3 all of which are to be considered administrative costs covered by CONTRACTOR's allowance for overhead and profit;
  - 2) Expenses of CONTRACTOR's principal and branch offices other than CONTRACTOR's office at the site;

- 3) Any part of CONTRACTOR's capital expenses, including interest on CONTRACTOR's capital employed for the Work and charges against CONTRACTOR for delinquent payments; or
- 4) Costs due to the negligence of CONTRACTOR, any Subcontractor, or anyone directly employed by any of them or for whose acts any of them may be liable including, but not limited to, the correction of Defective work, disposal of materials or equipment wrongly supplied and making good any damage to property.

## **ARTICLE 13 - PAYMENTS TO CONTRACTOR AND COMPLETION OF WORK.**

### **13.1 Schedule of Values (Lump Sum Price Breakdown).**

A schedule of values or lump sum price breakdown prepared by CONTRACTOR and submitted and agreed to by COUNTY shall serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to COUNTY.

### **13.2 Unit Price Bid Schedule.**

Progress payments on account of Unit Price Work will be based on the number of units completed.

### **13.3 Application for Progress Payment.**

- A. Unless otherwise prescribed by law, on the 25th of each month, CONTRACTOR shall submit to COUNTY for review, an Application for Payment filled out and signed by CONTRACTOR covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents.
- B. The Application for Payment shall identify, as a subtotal, the amount of CONTRACTOR'S Work completed during the application period, plus the Value of Materials Stored at the Site which have not yet been incorporated in the Work, and less a deductive adjustment for materials installed which were not previously incorporated in the Work, but for which payment was allowed under the provisions for payment for Materials Stored at the Site, but not yet incorporated in the Work.
- C. The Net Payment Due to CONTRACTOR for Task 2 - Construction shall be the above-mentioned subtotal from which shall be deducted the amount of retainage of five percent (5%) which shall be reduced in accordance with the provisions of Section 255.078, Florida Statutes (2022), and the total amount of all previous payments made to CONTRACTOR. Should COUNTY elect to Partially Utilize any portion of the Work before Substantial Completion of the entire Work, CONTRACTOR shall be entitled to a reduction in retainage commensurate with the value of the Work, which COUNTY has elected to utilize.
- D. The Value of Materials Stored at the Site shall be based upon the value of all acceptable materials and equipment not incorporated in the Work, but delivered and suitably stored at the site or at another location agreed to in writing; provided, each such individual item has a value of more than \$5000 and will become a permanent part of the Work. The Application for Payment shall also be accompanied by a bill of sale, invoice or other documentation warranting that

CONTRACTOR has received the materials and equipment free and clear of all liens, charges, security interests and encumbrances (hereinafter referred to as "Liens"), and evidence that the materials and equipment are covered by appropriate property insurance and other arrangements to protect COUNTY'S interest therein, all of which will be satisfactory to COUNTY.

- E. Salary/Wages. Pursuant to the Davis-Bacon Act, applications for Payment shall include invoices of sufficient detail for a proper pre-audit and post-audit to be performed. A list of all personnel involved, including all subcontractors, position classification, direct salary rates, and hours spent on the Project must be provided by CONTRACTOR to COUNTY.
- F. Overhead/Indirect/General and Administrative Costs. Any claim for multipliers (i.e., fringe benefits, overhead, indirect, and/or general and administrative rates) shall be supported by audit. If GRANTOR determines that multipliers charged by CONTRACTOR exceed the rates supported by audit, CONTRACTOR shall reimburse such funds to COUNTY within fifteen (15) days of written demand. Interest shall be charged on the excessive rate.
- G. Subcontractors. Requests for payment to subcontractors must be substantiated by copies of invoices with backup documentation. Subcontracts which involve payments for direct salaries shall clearly identify the personnel involved, salary rate per hour, and hours spent on the Project. All eligible multipliers used (fringe benefits, overhead, indirect and/or general administrative rates) shall be supported by audit. If GRANTOR determines that any subcontractor exceeded the rates supported by audit, CONTRACTOR shall be required to reimburse COUNTY such funds within fifteen (15) days of written notification. Interest shall be charged on the excessive rate. Non-consumable and/or nonexpendable personal property or equipment costing \$5,000 or more purchased for the Project under a subcontract is subject to the requirements set forth in Chapters 273 and/or 274, Florida Statutes (2022), and Chapter 69I-72, Florida Administrative Code (F.A.C.) and/or Chapter 69I-73, F.A.C., as applicable. CONTRACTOR is responsible for maintaining appropriate property records for any subcontracts that include the purchase of equipment as part of the delivery of services. CONTRACTOR is responsible to ensure any subcontracts issued under this Master Agreement, if any, impose this requirement in writing, on its subcontractors.
- 1) Fixed-price (vendor) subcontracts may be awarded solely on a competitive basis to consultants/contractors in performing the Work. Any invoice for work performed on the Project under a fixed price (vendor) subcontract shall be supported with a copy of the subcontractor's invoice and a copy of the tabulation form for the competitive procurement process (ex. Invitation to Bid, Request for Proposals, or similar competitive procurement document) resulting in the fixed price subcontract.
  - 2) If the procurement is subject to the Consultant's Competitive Negotiation Act under Section 287.055, Florida Statutes (2022), or the Brooks Act, CONTRACTOR must provide documentation clearly evidencing it has complied with the statutory or Federal requirements.

- H. Equipment. Equipment is defined as capital outlay costing \$5,000 or more. Any direct purchase of equipment is subject to GRANTOR specific approval and does not include any equipment purchased under the delivery of services to be completed by a subcontractor. Invoices and receipts are required to document purchases.
- I. Rental/Lease of Equipment. Requests for rental/lease of equipment must include copies of invoices or receipts to document charges.
- J. Miscellaneous. Claims for miscellaneous or other expenses, such as materials, supplies, non-excluded phone expenses, reproduction, or mailing, must be itemized and include receipts or invoices. Note, the following costs are NOT allowed: cell phone usage; attorney's fees or court costs, civil or administrative penalties, or handling fees, such as set percent overages associated with purchasing supplies or equipment.
- K. Land. Any need to acquire an interest or right to real property (including access rights through ingress/egress easements, leases, license agreements, or other site access agreements; and or obtaining record title ownership of real property through purchase) must first be approved by COUNTY in consultation with GRANTOR, as same may be ineligible for Grant funding. Should such a request be approved, same shall be supported by the following as applicable: Copies of Property Appraisals, Environmental Site Assessments, Surveys and Legal Descriptions, Boundary Maps, Acreage Certification, Title Search Reports, Title Insurance, Closing Statements/ Documents, Deeds, easements, License Agreement or other legal instrument documenting acquired property interest and or rights.
- L. Any funds paid by COUNTY to CONTRACTOR in excess of the amount to which CONTRACTOR is entitled, must be refunded to COUNTY within ten (10) days of written demand.
- M. Status Reports. The Parties acknowledge that GRANTOR requires COUNTY to submit status reports on a quarterly basis. Accordingly, CONTRACTOR shall be required to submit similar reporting to COUNTY as same may be required by COUNTY's Utilities Director or the Program Manager.

13.4 CONTRACTOR's Warranty of Title.

CONTRACTOR warrants and guarantees that title to all Work, materials and equipment covered by an Application for Payment, whether incorporated in the Work or not, will pass to COUNTY no later than the time of final payment free and clear of all Liens.

13.5 Review of Applications for Progress Payment.

- A. COUNTY will, within seven (7) days after receipt of each Application for Payment, either indicate in writing a recommendation of payment, or return the Application to CONTRACTOR indicating in writing COUNTY'S reasons for refusing to recommend payment. In the latter case, CONTRACTOR may make the necessary corrections and resubmit the Application.

- B. COUNTY may refuse to make payment of the full amount requested because claims have been made against COUNTY, on account of CONTRACTOR's performance of the Work or Liens have been filed in connection with the Work or there are other items entitling COUNTY to a credit against the amount recommended, but COUNTY must give CONTRACTOR written notice within seven (7) days (with a copy to the engineer of record) stating the reasons for such action.

13.6 Partial Utilization.

- A. COUNTY shall have the right to utilize or place into service any item of equipment or other usable portion of the Work prior to completion of the Work. Whenever COUNTY plans to exercise said right, CONTRACTOR will be notified in writing by COUNTY, identifying the specific portion or portions of the Work to be so utilized or otherwise placed into service.
- B. It shall be understood by CONTRACTOR that until such written notification is issued, all responsibility for care and maintenance of all items or portions of the Work to be Partially Utilized shall be borne by CONTRACTOR. Upon issuance of written notice of Partial Utilization, COUNTY will accept responsibility for the protection and maintenance of all such items or portions of the Work described in the written notice and any warranty and the one-year correction period for such Work shall commence to run.
- C. CONTRACTOR shall retain full responsibility for satisfactory completion of the Work, regardless of whether a portion thereof has been Partially Utilized by COUNTY and CONTRACTOR's one (1) year correction period for Work other than that Partially Utilized shall commence only after the date of Substantial Completion for the Work.

13.7 Substantial Completion.

- A. Definition of "Substantial Completion."  
"Substantial Completion" shall mean the stage in the progression of Task 2 - Construction, when Work is sufficiently complete, in accordance with this Master Agreement, that COUNTY can enjoy beneficial use or occupancy of the Work and can utilize the Work for its intended purpose.
- B. Punch List.  
When CONTRACTOR believes that the Work is substantially complete, CONTRACTOR shall submit to the Architect and/or Engineer a list of items to be completed or corrected ("Punch List Items").
- C. Certificate of Substantial Completion.  
When the Architect and/or Engineer on the basis of an inspection determines that the Work is in fact substantially complete, it will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall state the responsibilities of COUNTY and CONTRACTOR for Project security, maintenance, heat, utilities, damage to the Work, and insurance, and shall fix the time within which CONTRACTOR shall complete the items listed therein.

D. Payment at Substantial Completion.

The Certificate of Substantial Completion shall be submitted to COUNTY and CONTRACTOR for their written acceptance of the responsibilities assigned to them in such certificate. Upon such acceptance, Substantial Completion of the Work and execution by both COUNTY and CONTRACTOR of the Certificate of Substantial Completion, COUNTY shall pay CONTRACTOR an amount sufficient to increase total payments to CONTRACTOR to one hundred percent (100%) of the Agreement Price less one hundred percent (150%) of the reasonable cost as determined by COUNTY and the Architect and/or Engineer for completing all incomplete Work, correcting and bring into conformance all defective and nonconforming Work, and handling all unsettled claims.

E. Contract Time and Liquidated Damages.

- 1) CONTRACTOR shall commence Work on Task 2 on the start date set forth in the Notice to Proceed (the "Start Date"). CONTRACTOR shall be issued the Notice to Proceed AFTER ALL CONTRACT DOCUMENTS ARE FILED AND RECORDED TO COUNTY'S SATISFACTION AND PERMITS ISSUED. CONTRACTOR shall achieve Substantial Completion of the Work no later than the number of calendar days specified in the Task 2 Contract Amendment as measured from the Start Date listed on the Notice to Proceed, when issued. The number of calendar days from the Start Date through the date set forth for Substantial Completion, shall constitute the Contract Time for Task 2.
- 2) No Work is permitted during any holiday, weekend day or outside the established County workday timeframe, unless approved by the COUNTY forty-eight (48) hours in advance. Failure to complete Work within the Contract Time will cause the charge of liquidated damages per calendar day of delay. At the Pre-Construction Conference, CONTRACTOR shall submit a schedule for performing the Work. The schedule shall be within the Contract Time allotted for this Project and shall include tentative dates of performance. Contract Time shall begin for each Phase, if applicable, from the Start Date.
- 3) Liquidated damages are hereby fixed and agreed upon between the Parties; recognizing the impossibility of precisely ascertaining the amount of damages that will be sustained by COUNTY, as a consequence of such delay and both Parties desiring to obviate any question of dispute concerning the amount of said damages and the cost and effect of the failure of CONTRACTOR achieve Substantial Completion of Task 2 as specified in this Master Agreement. COUNTY shall have the right to deduct from and retain out of monies which may be then due or which may become due and payable to CONTRACTOR, the amount of such liquidated damages and if the amount retained by COUNTY is insufficient to pay in full such liquidated damages, CONTRACTOR shall pay in full such liquidated damages.
- 4) Beginning on the first calendar day after scheduled Substantial Completion of Task 2 - Construction, liquidated damages shall accrue at the rate agreed upon by both Parties. When COUNTY reasonably believes that Substantial Completion will be inexcusably delayed, COUNTY shall be

entitled, but not required, to withhold from any amounts otherwise due CONTRACTOR an amount then believed by COUNTY to be adequate to recover liquidated damages applicable to such delays. If and when CONTRACTOR overcomes the delay in achieving Substantial Completion, or any part thereof, for which COUNTY has withheld payment, COUNTY shall promptly release to CONTRACTOR those funds withheld, but no longer applicable, as liquidated damages.

13.8 Final Completion.

A. Definition of "Final Completion."

Final Completion is defined as having all Work completed, all Punch List Items corrected, final inspection completed and accepted by COUNTY. CONTRACTOR shall achieve Final Completion no later than the number of calendar days specified from the Start Date listed on the Notice to Proceed, when issued.

B. Certificate for Payment.

When all of the Work is finally complete and CONTRACTOR is ready for a final inspection, CONTRACTOR shall notify COUNTY and the Architect and/or Engineer thereof in writing. Thereupon, the Architect and/or Engineer will make final inspection of the Work and, if the Work is acceptable under the Contract Documents and this Master Agreement has been fully performed, the Architect and/or Engineer will promptly issue a final Certificate for Payment certifying to COUNTY that the Project is complete and CONTRACTOR is entitled to the remainder of the unpaid Agreement Price (including retainage, if any), less any amount withheld pursuant to this Master Agreement. If the Architect and/or Engineer is unable to issue its final Certificate for Payment and is required to repeat its final inspection of the Work, CONTRACTOR shall bear the cost of such repeat final inspection(s) which cost may be deducted by COUNTY from CONTRACTOR's final payment.

C. Contract Time and Liquidated Damages.

- 1) CONTRACTOR or CONTRACTOR's surety, if any, shall pay COUNTY liquidated damages; the sum as agreed upon by both Parties, per day for each and every calendar day of unexcused delay in achieving Final Completion beyond the date set forth herein for Final Completion of the Work. Any sums due and payable hereunder by CONTRACTOR shall be payable, not as a penalty, but as liquidated damages representing an estimate of delay damages likely to be sustained by COUNTY.
- 2) When COUNTY reasonably believes that Final Completion will be inexcusably delayed, COUNTY shall be entitled, but not required, to withhold from any amounts otherwise due CONTRACTOR, an amount then believed by COUNTY to be adequate to recover liquidated damages applicable to such delays, if any. When CONTRACTOR overcomes the delay in achieving Final Completion, or any part thereof, for which COUNTY has withheld payment, COUNTY shall promptly release to CONTRACTOR those funds withheld, but no longer applicable, as liquidated damages.



D. Final Payment.

CONTRACTOR shall not be entitled to final payment until this Master Agreement is closed out requiring completion by CONTRACTOR and acceptance by COUNTY of the Work and all corrected Punch List Items; Final Inspection completed; and COUNTY's receipt of the following: CONTRACTOR's final Application for Payment requesting release of retainage (if any); CONTRACTOR's affidavit affirming that all payrolls, invoices for materials and equipment, and other liabilities connected with the Work for which COUNTY, or COUNTY's property might be responsible, have been fully paid or otherwise satisfied; Waivers of Right to Claim Against the Payment Bond (Final Payment) from all subcontractors, as defined in Section 713.01, Florida Statutes (2022), who performed Work on the Project; As-Built Survey; and, as applicable, all OEM Manuals; spare parts; all video of area worked on; all FDEP Clearance for Water and/or Sewer; all testing documents/reports received for any and all ROW Inspections completed and accepted; and, all testing of machinery warranty letters/affidavits.

13.9 Contractor's Continuing Obligation.

CONTRACTOR's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. Neither recommendation of any progress or final payment by COUNTY, nor the issuance of a Certificate of Substantial Completion or final Certificate for Payment, nor any payment by COUNTY to CONTRACTOR under the Contract Documents, nor any use or occupancy of the Work or any part thereof by COUNTY, nor any act of acceptance by COUNTY nor any failure to do so, nor any review of a Shop Drawing or sample submittal, will constitute an acceptance of Work not in accordance with the Contract Documents or a release of CONTRACTOR's obligation to perform the Work in accordance with the Contract Documents.

13.10 Final Payment Terminates Liability of Owner.

Final payment is defined as the last progress payment made to CONTRACTOR for earned funds, less deductions. The acceptance by CONTRACTOR of the final payment shall be a release of COUNTY and its agents from all claims of liability to CONTRACTOR for anything done or furnished for, or relating to, the Work or for any act or neglect of COUNTY or of any person relating to or affecting the Work hired by COUNTY, except for demands against COUNTY for the remainder, if any, of the amounts kept or retained under this Article 13; and except for pending, unresolved claims filed prior to the date of the Certificate of Substantial Completion or final Certificate for Payment.

**ARTICLE 14 - TERMINATION OF THE MASTER AGREEMENT.**

14.1 Suspension of Work by COUNTY.

COUNTY may, at any time and without cause, suspend the Work or any portion thereof for a period of not more than ninety (90) days by notice in writing to CONTRACTOR. CONTRACTOR shall resume the Work on receipt from COUNTY of a notice of resumption of Work. CONTRACTOR shall be allowed an increase in the Contract Sum or an extension of the Contract Time, or both, directly attributable to any suspension if CONTRACTOR makes an approved claim therefore.

14.2 Breach of Exhibit "B."

A breach of the ARPA Contract Clauses may be grounds for termination of the Master Agreement and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

14.3 2 C.F.R. § 200.340.

The Master Agreement may be terminated in whole or in part pursuant to 2 C.F.R. § 200.340.

14.4 Termination for Convenience (General Provisions).

A. COUNTY may terminate this Master Agreement, in whole or in part, at any time by written notice to CONTRACTOR when it is in COUNTY's best interest, as determined by COUNTY in its sole discretion. CONTRACTOR shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. CONTRACTOR shall promptly submit its termination claim to COUNTY. If CONTRACTOR has any property in its possession belonging to COUNTY, CONTRACTOR will account for the same, and dispose or return of it in the manner COUNTY directs.

B. If the Master Agreement elsewhere has one or more termination for convenience provisions in addition to this section, then COUNTY may select the termination for convenience provision for the termination that COUNTY deems most advantageous to COUNTY.

14.5 Termination for Default [Breach or Cause] (General Provision).

A. If CONTRACTOR does not deliver supplies in accordance with the delivery schedule, CONTRACTOR fails to perform in the manner called for in the Master Agreement, or CONTRACTOR fails to comply with any other provision of the Master Agreement, COUNTY may terminate this Master Agreement for default. COUNTY shall terminate by delivering to CONTRACTOR a Notice of Termination specifying the nature of the default. CONTRACTOR will only be paid for the Master Agreement's price for supplies delivered and accepted.

B. If it is later determined by COUNTY that CONTRACTOR had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of CONTRACTOR, COUNTY, after setting up a new delivery of performance schedule, may allow CONTRACTOR to continue work, or treat the termination as a Termination for Convenience.

C. If the Master Agreement elsewhere has one or more termination for default/breach/cause provisions in addition to this section, then COUNTY may select the termination provision for the termination that COUNTY deems most advantageous to COUNTY.

14.6 Opportunity to Cure (General Provision).

A. In the case of a termination for breach or default, COUNTY, in its sole discretion, may allow CONTRACTOR two (2) weeks in which to cure the defect. In such case, the Notice of Termination will state the time period in which cure is permitted and other appropriate conditions.

- B. If CONTRACTOR fails to remedy to COUNTY's satisfaction the breach or default of any of the terms, covenants, or conditions of this Master Agreement within ten (10) business days after receipt by CONTRACTOR of written notice from COUNTY setting forth the nature of said breach or default, COUNTY shall have the right to terminate the Master Agreement without any further obligation to CONTRACTOR. Any such termination for default shall not in any way operate to preclude COUNTY from also pursuing all available remedies against CONTRACTOR and its sureties for said breach or default.
- 14.7 Waiver of Remedies for any Breach.  
In the event that COUNTY elects to waive its remedies for any breach by CONTRACTOR of any covenant, term or condition of this Master Agreement, such waiver by COUNTY shall not limit COUNTY's remedies for any succeeding breach of that or of any other covenant, term, or condition of this Master Agreement.
- 14.8 Termination for Convenience (Professional Services).  
COUNTY, by written notice, may terminate this Master Agreement, in whole or in part, when it is in COUNTY's interest, as determined by COUNTY in its sole discretion. If this Master Agreement is terminated, COUNTY shall be liable only for payment under the payment provisions of this Master Agreement for services rendered before the effective date of termination.
- 14.9 Termination for Default (Supplies and Service).  
A. If CONTRACTOR fails to deliver supplies or to perform the services within the time specified in this Master Agreement or any extension, or if CONTRACTOR fails to comply with any other provisions of this Master Agreement, COUNTY may terminate this Master Agreement for default. COUNTY shall terminate by delivering to CONTRACTOR a Notice of Termination specifying the nature of the default. CONTRACTOR will only be paid the contracted price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this Master Agreement.  
B. If, after termination for failure to fulfill contract obligations, it is determined that CONTRACTOR was not in default, the rights and obligations of the Parties shall be the same as if the termination had been issued for the convenience of COUNTY.
- 14.10 Termination for Default (Transportation Services).  
A. If CONTRACTOR fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this Master Agreement or any extension, or if CONTRACTOR fails to comply with any other provisions of this Master Agreement, COUNTY may terminate this Master Agreement for default. COUNTY shall terminate by delivering to CONTRACTOR a Notice of Termination specifying the nature of default. CONTRACTOR will only be paid the contracted price for services performed in accordance with the manner of performance set forth in this Master Agreement.  
B. If this Master Agreement is terminated while CONTRACTOR has possession of COUNTY's goods, CONTRACTOR shall, upon direction of COUNTY, protect and

preserve the goods until surrendered to COUNTY or its agent. CONTRACTOR and COUNTY shall agree on payment for the preservation and protection of goods.

- C. Failure to agree on an amount will be resolved under Paragraph 15.5 entitled "Disputes."
- D. If, after termination for failure to fulfill contract obligations, it is determined that CONTRACTOR was not in default, the rights and obligations of the Parties shall be the same as if the termination had been issued for the convenience of COUNTY.

14.11 Termination for Default (Construction).

- A. If CONTRACTOR refuses or fails to prosecute the Work or any separable part, with the diligence that will ensure its completion within the time specified in this Master Agreement or any extension or fails to complete the work within this time, or if CONTRACTOR fails to comply with any other provision of this Master Agreement, COUNTY may terminate this Master Agreement for default. COUNTY shall terminate by delivering to CONTRACTOR a Notice of Termination specifying the nature of the default. In this event, COUNTY may take over the Work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the Work site necessary for completing the Work. CONTRACTOR and its sureties shall be liable for any damage to COUNTY resulting from CONTRACTOR's refusal or failure to complete the Work within specified time, whether or not CONTRACTOR's right to proceed with the Work is terminated. This liability includes any increased costs incurred by COUNTY in completing the Work.
- B. CONTRACTOR's right to proceed shall not be terminated nor shall CONTRACTOR be charged with damages under this clause if:
  - 1) The delay in completing the Work arises from unforeseeable causes beyond the control and without the fault or negligence of CONTRACTOR. Examples of such causes include acts of God, acts of COUNTY, acts of another contractor in the performance of a contract with COUNTY, strikes, and freight embargoes. COUNTY and CONTRACTOR do not anticipate the COVID-19 public health emergency will make it impossible or impracticable for CONTRACTOR to perform the Master Agreement.
  - 2) CONTRACTOR, within ten (10) days from the beginning of any delay, notifies COUNTY in writing of the causes of delay. If, in the judgment of COUNTY, the delay is excusable, the time for completing the Work shall be extended. The judgment of COUNTY shall be final and conclusive for the Parties, but subject to appeal under Paragraph 15.5 entitled "Disputes."
  - 3) If, after termination of CONTRACTOR's right to proceed, it is determined that CONTRACTOR's right to proceed, it is determined that CONTRACTOR was not in default, or that the delay was excusable, the rights and obligations of the Parties will be the same as if the termination had been issued for the convenience of COUNTY.

**14.12 Termination for Convenience or Default (Architect and Engineering).**

- A. COUNTY may terminate this Master Agreement in whole or in part, for COUNTY's convenience or because of the failure of CONTRACTOR to fulfill the contract obligations. COUNTY shall terminate by delivering to CONTRACTOR a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, CONTRACTOR shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to COUNTY's designated Procurement professional all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this Master Agreement, whether completed or in process. COUNTY has a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, all such data, drawings, specifications, reports, estimates, summaries, and other information and materials.
- B. If the termination is for the convenience of COUNTY, COUNTY's designated Procurement professional shall make an equitable adjustment in the Master Agreement Sum but shall allow no anticipated profit on unperformed services.
- C. If the termination is for failure of CONTRACTOR to fulfill the contract obligations, COUNTY may complete the Work by contract or otherwise and CONTRACTOR shall be liable for any additional cost incurred by COUNTY.
- D. If, after termination for failure to fulfill contract obligations, it is determined that CONTRACTOR was not in default, the rights and obligations of the Parties shall be the same as if the termination had been issued for the convenience of COUNTY.

**ARTICLE 15 - VIOLATION AND BREACH OF THE AGREEMENT.**

**15.1 Clauses Flow Down.**

The Parties acknowledge that for any contract in excess of the Simplified Acquisition Threshold (currently set at \$250,000) the contract shall contain administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms and provide for such sanctions and penalties as appropriate. The Parties specifically agree that the provisions of this Article 15 flow down to all third-party contractors and their contracts at every tier.

**15.2 Rights and Remedies of COUNTY.**

COUNTY shall have the following rights in the event that COUNTY deems CONTRACTOR guilty of a breach of any term under the Master Agreement.

- 1) The right to take over and complete the Work or any part thereof as agency for and at the expense of CONTRACTOR, either directly or through other contractors;
- 2) The right to cancel this Master Agreement as to any or all of the work yet to be performed;
- 3) The right to specific performance, an injunction or any other appropriate equitable remedy;
- 4) The right to money damages; and
- 5) Any other remedy in law or equity.

15.3 Rights and Remedies of CONTRACTOR.

Inasmuch as CONTRACTOR can be adequately compensated by money damages for any breach of this Master Agreement, which may be committed by COUNTY, CONTRACTOR expressly agrees that no default, act or omission of COUNTY shall constitute a material breach of this Master Agreement, entitling CONTRACTOR to cancel or rescind the Master Agreement, unless COUNTY directs CONTRACTOR to do so, or to suspend or abandon performance.

15.4 Remedies.

Unless this Master Agreement provides otherwise, all claims, counterclaims, disputes and other matters in question between COUNTY and CONTRACTOR arising out of or relating to this Master Agreement or its breach will be decided by arbitration if the Parties mutually agree, or in a court of competent jurisdiction within Marion County, Florida.

15.5 Disputes.

Disputes arising in the performance of this Master Agreement that are not resolved by agreement of the Parties shall be decided in writing by the authorized representative of COUNTY's Project Manager. This decision shall be final and conclusive unless within ten (10) business days from the date of receipt of its copy, CONTRACTOR mails or otherwise furnishes a written appeal delivered to COUNTY's Procurement Services Department. In connection with any such appeal, CONTRACTOR shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the Procurement Manager shall be binding upon CONTRACTOR and CONTRACTOR shall abide by the decision.

15.6 Performance during Dispute.

Unless otherwise directed by COUNTY, CONTRACTOR shall continue performance under this Master Agreement while matters in dispute are being resolved.

15.7 Claims for Damages.

Should either Party to the Master Agreement suffer injury or damage to person or property because of any act or omission of the other Party or any of its employees, agents or others for whose acts it is legally liable, a claim for damages, therefore shall be made in writing to such other Party within a reasonable time after the first observance of such injury or damage.

15.8 Rights and Remedies.

The duties and obligations imposed by the Master Agreement and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by COUNTY or CONTRACTOR shall constitute a waiver of any right or duty afforded any of them under the Master Agreement, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

15.9 Remedial Actions.

In the event of CONTRACTOR's noncompliance with section 603 of the Act, other applicable laws, Treasury's implementing regulations, guidance, or any reporting or other program requirements, Treasury may impose additional conditions on the receipt of a

subsequent tranche of future award funds, if any, or take other available remedies as set forth in 2 C.F.R. § 200.339. In the case of a violation of section 603(c) of the Act regarding the use of funds, previous payments shall be subject to recoupment as provided in section 603(e) of the Act.

15.10 Notification of Termination (2 C.F.R. 200.340).

In accordance with 2 C.F.R. 200.340, in the event that this Agreement is terminated prior to the end of the period of performance due to the CONTRACTOR's, subconsultant's or subcontractor's material failure to comply with Federal statutes, regulations or the terms and conditions of this Agreement or the Federal award, the termination shall be reported to the Office of Management and Budget (OMB)-designated integrity and performance system, accessible through System for Award Management (SAM) currently the Federal Awardee Performance and Integrity Information System (FAPIS). GRANTOR will notify CONTRACTOR of the termination and the Federal requirement to report the termination in FAPIS. See 2 C.F.R. 200.340 for the requirements of the notice and the CONTRACTOR's rights upon termination and following termination.

**ARTICLE 16 - DISPUTE RESOLUTION.**

16.1 Scope of Dispute Review.

Any controversy or claim arising out of or relating to this Master Agreement or any breach of it shall be subject to the dispute resolution procedures set forth below. Unless otherwise agreed in writing, the Parties shall continue and proceed diligently to complete portions of the Work or Project not affected by the claim(s) during dispute resolution proceedings.

16.2 Time of Claim.

Claims must be brought pursuant to the terms of this Master Agreement and within the applicable statute of limitations. Failure to bring the claim or commence an action within the required time shall constitute a waiver of the Party's right to assert the claim. Any notice of claim shall provide reasonably sufficient detail of the nature of the claim and the basis for the assertion of the claim.

16.3 Mediator.

The Parties agree that any dispute or claim arising out of or relating to performance of this Master Agreement shall be submitted to a mediator mutually agreeable to all Parties for nonbinding mediation. Such mediation shall be a strict condition precedent to the right of any Party hereto to commence any action in any court. The statute of limitations shall be tolled during the mediation process.

16.4 Selection of Mediator, Mediation.

The mediator shall be selected by the Parties within twenty (20) days following the date that a Party requests that the selection process commence. The mediation hearing shall be held at a location mutually approved by the Parties within Marion County, Florida. Unless the Parties otherwise agree in writing, any mediation must be commenced on or before the thirtieth (30th) calendar day after the mediator is selected. Each Party agrees that it will designate a representative, having authority to bind that Party, who will attend all mediation hearings. Both Parties shall endeavor, in good faith, to reach a resolution of the claim during the mediation. The mediator shall submit a sworn affidavit to both Parties

indicating that the mediator has no past or present affiliation with either CONTRACTOR or COUNTY.

16.5 Production of Documents/Exchange of Information.

If the Parties cannot agree on the production of documents or exchange of other information (including rules relating thereto), necessary to facilitate a successful mediation, then the mediator shall make a determination as to the scope and nature of the exchange at the initial hearing or at such later time as a Party may request, but in no event later than fifteen (15) days before the mediation.

16.6 Proceeding Costs and Fees.

All Parties participating in the mediation shall be responsible for their own costs, expenses and attorney fees necessary to pursue or defend against claim(s) raised under these provisions; however, the Parties shall equally share the costs of any meeting or hearing place and the fees of the mediator.

16.7 Enforceability and Form of Agreement.

Any agreement reached at the mediation is not binding on any Party participating in the mediation unless and until the Parties agree to it in writing.

16.8 Litigation.

If informal settlement discussions are unsuccessful, and the Parties cannot reach an agreement through mediation with respect to a claim or dispute, the Parties agree that thereafter the dispute or claim shall be resolved by litigation.

16.9 Attorneys' Fees and Costs.

Should any type of claim be made or action be commenced with respect to this Master Agreement, the prevailing Party shall be entitled to recover its reasonable attorneys' fees, appellate attorneys' fees, expert fees, paralegal fees and all reasonable costs incurred of any type whatsoever, whether taxable at law or not, in any way related to or arising from any such claim or action. The prevailing Party shall be the Party who receives a net positive recovery, award or judgment after the adjudication of all claims and compulsory counterclaims arising from the transaction or occurrence at issue as the same are defined by the Florida Rules of Civil Procedure. If the claim is decided by an administrative or governmental body, the prevailing Party shall be that Party who procures an action or finding in its favor pursuant to its complaint or defense. If the claim or action is for declaratory relief, the prevailing Party shall be that Party who receives a favorable interpretation or the interpretation requested of the matter submitted to the court, panel or other tribunal. The Parties further agree that exclusive jurisdiction for any action in any way pertaining to or arising from this Master Agreement shall lie in the State Circuit, County, or Federal Courts in and for Marion County, Florida. In the event of suit by COUNTY against CONTRACTOR and/or its surety, or suit by CONTRACTOR and/or its surety against COUNTY the venue of such suit shall be in Marion County, Florida, and the Parties hereby waive for themselves and those with whom they deal on behalf of this Master Agreement whatever other rights either of them may have in the selection of venue. COUNTY and CONTRACTOR further agree to knowingly, voluntarily and without any undue influence whatsoever waive any right or entitlement to trial by jury and IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT ANY ACTION ARISING FROM ANY DISPUTE HEREUNDER SHALL BE TRIED WITHOUT A JURY.



16.10. Survival.

All representations, indemnifications, warranties and guarantees made in, required by, or given in accordance with this Master Agreement, including but not limited to those specified in this Article 16, as well as all continuing obligations indicated in the Contract Documents, shall survive completion, final payment and acceptance of the Work.

**ARTICLE 17 - NOTICE, COMPUTATION OF TIME.**

17.1 Giving Notice.

Except as otherwise provided herein, all written communication between the Parties, including all notices, shall be by electronic mail, U.S. Mail, a courier delivery service, or delivered in person. Notices shall be deemed effective if mailed, when deposited in a United States Postal Service mailbox with postage prepaid and if hand delivered, upon personally handing same to the Party to whom the notice of other communication is addressed with signed proof of delivery. If otherwise delivered, notices shall be considered delivered when reflected by an electronic mail read receipt, a courier service delivery receipt, other mail service delivery receipt, or when receipt is acknowledged by CONTRACTOR. Both Parties certify that each has software capable of sending electronic mail read receipts to the other. Any Party sending notice by electronic mail acknowledges and accepts the inherent risks that come with same. If notice is delivered in multiple ways, notice shall be considered delivered at the earliest delivery time. CONTRACTOR's and COUNTY's representatives and addresses for notice purposes are:

**TO CONTRACTOR:**

QUALITY ENTERPRISES USA, INC.  
3494 Shearwater St.  
Naples, FL 34117  
Tele: 239-435-7200  
Lou Gaudio ([lgaudio@geusa.com](mailto:lgaudio@geusa.com))

**TO MARION COUNTY:**

ATTN: Utility Director  
Jody Kirkman  
11800 SE U.S. Highway 441  
Belleview, FL 34420  
Tele: (352) 307-6000  
[Jody.Kirkman@MarionFL.org](mailto:Jody.Kirkman@MarionFL.org)

With A Copy to:

Procurement Director                      and  
2631 SE Third St.  
Ocala, FL 34471  
Tele: (352) 671-8444  
[Susan.Olsen@MarionFL.org](mailto:Susan.Olsen@MarionFL.org)

County Administrator  
601 SE 25<sup>th</sup> Ave.  
Ocala, FL 34471  
Tele: (352) 438-2300  
[CountyAdministrator@MarionFL.org](mailto:CountyAdministrator@MarionFL.org)

Alternatively, the Parties may elect to receive said notices solely by e-mail. COUNTY hereby elects to receive all notices solely by email and designates its email address as

procurement@marionfl.org. If CONTRACTOR agrees to accept all notices solely by e-mail and acknowledges and accepts the inherent risks that come with accepting notices solely by e-mail, CONTRACTOR may designate up to two (2) e-mail addresses: [lgaudio@qeusa.com](mailto:lgaudio@qeusa.com) and [mcohen@qeusa.com](mailto:mcohen@qeusa.com). Designation signifies CONTRACTOR's election to accept notices solely by e-mail.

17.2 Computation of Time.

When any period of time is referred to in the Contract Documents by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation. A calendar day of twenty-four (24) hours measured from midnight to the next midnight shall constitute a day.

**ARTICLE 18 - MISCELLANEOUS.**

18.1 On-Going Compliance.

The Parties acknowledge that this Master Agreement may contain provisions prescribed by laws, statutes, and regulations that can change during the Term of the Agreement. The Parties understand and agree that this Master Agreement is intended to reflect and require the Parties' compliance with all laws at all times. The Parties expressly and specifically agree to perform this Master Agreement in full compliance with the governing laws, statutes, and regulations, as same may change from time to time.

18.2 Not a Limit.

The duties and obligations imposed by the Contract Documents and the rights and remedies available to the Parties hereto, and, in particular but without limitation, the warranties, guaranties and obligations imposed upon CONTRACTOR and all of the rights and remedies available to COUNTY hereunder, are in addition to, and are not to be construed in any way as a limitation of any rights and remedies available to any or all of them which are otherwise imposed or available by laws or regulations, and the provisions of this Paragraph will be as effective as if repeated specifically in the Contract Documents, and the provisions of this Paragraph will survive final payment and termination or completion of this Master Agreement.

18.3 Assignment.

CONTRACTOR shall not assign or transfer this Master Agreement or its rights, title or interests herein without COUNTY'S prior written approval. The entirety obligations undertaken by CONTRACTOR pursuant to this Master Agreement shall not be delegated or assigned to any other person or firm unless COUNTY shall first consent in writing to the assignment. Violation of the terms of this Paragraph shall constitute a breach of contract by CONTRACTOR and COUNTY may, at its discretion, terminate this Master Agreement and all rights, title and interest of CONTRACTOR shall thereupon cease and terminate.

18.4 Independent Contractors.

CONTRACTOR and its employees, independent contractors, subcontractors, suppliers, volunteers and agents shall be and remain an independent contractors and not agents or employees of COUNTY with respect to all of the acts and services performed by and under the terms of this Master Agreement. This Agreement shall not in any way be construed to

create a partnership, association or any other kind of joint undertaking or venture between the Parties hereto.

18.5 Cumulative Remedies.

The remedies expressly provided in this Master Agreement to COUNTY shall not be deemed to be exclusive but shall be cumulative and in addition to all other remedies in favor of COUNTY now or hereafter existing at law or in equity.

18.6 Severability.

Should any part, term or provision of this Master Agreement be deemed by a court to be invalid, illegal or in conflict with any law of the State, the validity of the remaining portions and provisions shall not be affected thereby.

18.7 Force Majeure.

A. No Party shall be liable for any default or delay in the performance of its obligations under this Master Agreement due to an act of God or other event to the extent that:

- 1) The non-performing Party is without fault in causing such default or delay;
- 2) Such default or delay could not have been prevented by reasonable precautions; and
- 3) Such default or delay could not have been reasonably circumvented by the non-performing Party through the use of alternate sources, work-around plans or other means.

B. Force majeure causes include, but are not limited to: act of civil or military authority (including but not limited to courts or administrative agencies); acts of God; war; terrorist attacks; riot; insurrection; inability of COUNTY to secure approval, validation or sale of bonds; inability of COUNTY or the CONTRACTOR to obtain any required permits, licenses or zoning; blockades; embargoes; sabotage; epidemics; fires; hurricanes, tornados, floods; or strikes. In the event of any delay resulting from such causes, the time for performance of each of the Parties hereunder (including the payment of monies if such event actually prevents payment) shall be extended for a period of time reasonably necessary to overcome the effect of such delay, except as provided for elsewhere in the Contract Documents. In the event of any delay or nonperformance resulting from such causes, the Party affected shall promptly notify the other in writing of the nature, cause, date of commencement and the anticipated impact of such delay or nonperformance. Such written notice, including Change Orders, shall indicate the extent, if any, to which it is anticipated that any delivery or completion dates will be thereby affected.

18.8 Harmony.

CONTRACTOR is advised and hereby agrees that it will exert every reasonable and diligent effort to assure that all labor employed by CONTRACTOR and its Subcontractors for work on the Project shall work in harmony with and be compatible with all other labor being used by building and construction contractors now or hereafter on the site of the Project. CONTRACTOR further agrees that this provision will be included in all subcontracts of the Subcontractors as well as CONTRACTOR's own contract; provided, however, that this provision shall not be interpreted or enforced so as to deny or abridge, on account of membership or non-membership in any labor union or labor organization,

the right of any person to work as guaranteed by Article 1, Section 6 of the Florida Constitution.

**ARTICLE 19 - ADDITIONAL TERMS AND CONDITIONS.**

- 19.1 CONTRACTOR acknowledges that funding for the Project is provided in whole or in part by State and/or Federal grant monies.
- 19.2 CONTRACTOR agrees to comply with all applicable terms of the Grant Agreement between COUNTY and GRANTOR approved by COUNTY's Board of County Commissioners on May 13, 2021 ("Grant Agreement"), a substantial copy attached hereto as **Exhibit "A."** CONTRACTOR specifically acknowledges receipt of a copy of said Grant Agreement and the Parties incorporate the terms and conditions as if stated in full herein.
- 19.3. CONTRACTOR agrees to comply with all Special Terms and Conditions associated with the Grant and set forth on **Exhibit "B"** hereto.
- 19.4 CONTRACTOR shall comply with the Florida Trench Safety Act, Sections 5530-553.64, Florida Statutes (2022).
- 19.5 CONTRACTOR shall comply with the Occupational Safety and Health Act, 20 U.S.C. 651, *et seq.*
- 19.6 CONTRACTOR shall take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. CONTRACTOR shall document its efforts to utilize said firms, including what firms were solicited as suppliers and/or subcontractors as applicable, and submit this information to COUNTY.

**ARTICLE 20 - AUDIT AND INSPECTION RIGHTS.**

- 20.1 COUNTY may, at reasonable times and for a period of up to five (5) years following the date of Final Completion, audit, or cause to be audited, those books and records of CONTRACTOR which are related to CONTRACTOR'S performance under this Master Agreement. CONTRACTOR agrees to maintain all such books and records at its principal place of business for a period of five (5) years after final payment is made under this Master Agreement. CONTRACTOR shall maintain records and financial documents sufficient to evidence compliance with section 603(c) of the Social Security Act, the U.S. Department of the Treasury's regulations implementing that section, and guidance issued by the U.S. Department of the Treasury regarding same. The U.S. Department of the Treasury Office of Inspector General and the Government Accountability Office, or their representatives or those of any State or local authority, shall have the right of access to records (electronic or otherwise) of CONTRACTOR in order to conduct audits or other investigations.
- 20.2 COUNTY may, at reasonable times during the term hereof, inspect CONTRACTOR'S facilities and perform such inspections as COUNTY deems reasonably necessary to determine whether the Services required to be provided by CONTRACTOR under this Master Agreement conform to the terms hereof and/or the terms of this Master Agreement.

CONTRACTOR shall make available to COUNTY all reasonable facilities and assistance to facilitate the performance of inspections by COUNTY'S representatives. All inspections shall be subject to, and made in accordance with, all applicable Laws, including but not limited to the provisions of the Marion County Code, as same may be amended or supplemented from time to time.

## **ARTICLE 21 - PUBLIC RECORDS.**

### **21.1 Public Records Obligations.**

If, under this Master Agreement, CONTRACTOR is providing services and is acting on behalf of COUNTY as provided under Section 119.011(2), Florida Statutes (2022), CONTRACTOR, shall:

- A. Keep and maintain public records required by COUNTY to perform the service;
- B. Upon request from COUNTY's custodian of records, provide 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 in Chapter 119, Florida Statutes, or as otherwise provided by law;
- C. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Master Agreement term and following completion of this Master Agreement if CONTRACTOR does not transfer the records to COUNTY; and,
- D. Upon completion of this Master Agreement, transfer, at no cost, to COUNTY, all public records in possession of CONTRACTOR or keep and maintain public records required by COUNTY to perform the service. If CONTRACTOR transfers all public records to COUNTY upon completion of this Master Agreement, CONTRACTOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If CONTRACTOR keeps and maintains public records upon completion of this Master Agreement, CONTRACTOR shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to COUNTY upon request from COUNTY's custodian of public records in a format that is compatible with the information technology systems of COUNTY.

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

with the provisions of this Article shall result in the immediate termination of this Master Agreement by COUNTY.

21.3 Unilateral Termination. If CONTRACTOR fails to provide the public records to COUNTY within a reasonable time or otherwise fails to comply with this Section, CONTRACTOR may be subject to penalties under Section 119.10, Florida Statutes (2022) and may be subject to unilateral cancellation of this Master Agreement by COUNTY.

21.4 Public Records Questions Contact.

**IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES (2022), TO CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS MASTER AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**

**Public Relations, 601 SE 25th Ave., Ocala, FL 34471**

**Phone: 352-438-2300 Fax: 352-438-2309**

**Email: [PublicRelations@MarionFL.org](mailto:PublicRelations@MarionFL.org)**

#### **ARTICLE 22 - ANNUAL APPROPRIATIONS.**

22.1 CONTRACTOR acknowledges that during any fiscal year COUNTY shall not expend money, incur any liability, or enter into any agreement which, by its terms, includes the expenditure of money in excess of the amounts budgeted as available for expenditure. COUNTY's performance and obligation to pay CONTRACTOR under this Master Agreement is contingent upon annual appropriation being made for that purpose. If during the term of this Master Agreement, COUNTY does not make an annual appropriation necessary to continue its performance under this Master Agreement, this Master Agreement shall terminate upon the expiration of the funded fiscal year.

#### **ARTICLE 23 - E-VERIFY.**

23.1 Section 448.095, Florida Statutes (2022), requires CONTRACTOR to be registered and use the E-Verify system to verify the work authorization status of all newly hired employees and prohibits CONTRACTOR from entering into this Master Agreement unless it is in compliance therewith. Information provided by CONTRACTOR is subject to review for the most current version of the State or Federal policies at the time of the award of this Master Agreement.

A. COUNTY hereby affirms it is duly registered, uses, and adheres to the practices of the E-Verify system, including those outlined in the clauses below.

B. CONTRACTOR has agreed to perform in accordance with the requirements of this Section and agrees as follows:

1) It certifies and assures COUNTY that CONTRACTOR is currently in full compliance with Section 448.095, Florida Statutes (2022), it is registered and uses the E-Verify System to verify work authorization status of all newly hired employees.

2) COUNTY shall immediately terminate this Master Agreement if COUNTY has a good faith belief that CONTRACTOR has knowingly violated Section 448.09(1), Florida Statutes (2022), that is, that CONTRACTOR knowingly

- employed, hired, recruited, or referred either for itself or on behalf of another, private or public employment within the State an alien who is not duly authorized to work by the immigration laws or the Attorney General of the United States.
- 3) When CONTRACTOR enters into a contract with an employee, a contractor or a subcontractor, CONTRACTOR shall obtain from that contracting party ("Contracting Party") an affidavit stating that the Contracting Party does not employ, contract with, or subcontract with an unauthorized alien.
  - 4) CONTRACTOR shall maintain a copy of such affidavit for the duration of this Master Agreement and provide it to COUNTY upon request.
  - 5) CONTRACTOR shall immediately terminate the Contracting Party if CONTRACTOR has a good faith belief that the Contracting Party has knowingly violated Section 448.09(1), Florida Statutes (2022), as set forth above.
  - 6) If COUNTY has a good faith belief that CONTRACTOR's Contracting Party has knowingly violated Section 448.095, Florida Statutes (2022), but that CONTRACTOR has otherwise complied, COUNTY shall promptly order CONTRACTOR to terminate the Contracting Party. CONTRACTOR agrees that upon such an order, CONTRACTOR shall immediately terminate the Contracting Party. CONTRACTOR agrees that if it should fail to comply with such an order, COUNTY shall immediately terminate CONTRACTOR.
  - 7) If COUNTY terminates this Master Agreement with CONTRACTOR, CONTRACTOR may not be awarded a public contract for a least one (1) year after the date of termination.
  - 8) CONTRACTOR is liable for any additional costs incurred by COUNTY as a result of a termination under this Section.
  - 9) Any such termination under this Section is not a breach of this Master Agreement and may not be considered as such.
  - 10) CONTRACTOR shall maintain records of its registration, use, and compliance with the provisions of the E-Verify system, including the registration and use by its subcontractors, and to make such records available to COUNTY or other authorized governmental entity.
  - 11) To comply with the terms of this Employment Eligibility Verification provision is made an express condition of this Master Agreement and COUNTY may treat a failure to comply as a material breach of this Master Agreement.

#### **ARTICLE 24 - SCRUTINIZED COMPANIES.**

##### **24.1 Certification.**

- A. If this Master Agreement is for One Million Dollars or more, CONTRACTOR certifies that at the time it submitted its bid or proposal for this Master Agreement or before entering into this Master Agreement or renewing same, CONTRACTOR was not then and is not now:
  - 1) On the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to Section 215.473, Florida Statutes (2022), or
  - 2) Engaged in business operations in Cuba or Syria.

- B. If this Master Agreement is for any amount, CONTRACTOR certifies that at the time it submitted its bid or proposal for this Master Agreement or before entering into this Master Agreement or renewing same, CONTRACTOR was not then and is not now:
- 1) On the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes (2022), or
  - 2) Engaged in a boycott of Israel.

**24.2 Termination, Threshold Amount.**

COUNTY may, entirely at its option, terminate this Master Agreement if it is for One Million Dollars and CONTRACTOR meets any of the following criteria.

- A. Was entered into or renewed on or after July 1, 2011, through June 30, 2012, and CONTRACTOR is found to meet any of the following prohibitions:
- 1) Submitted a false certification as provided under Section 287.135(5), Florida Statutes (2022), or
  - 2) Been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to Section 215.473, Florida Statutes (2022).
- B. Was entered into or renewed on or after July 1, 2012, through September 30, 2016, and CONTRACTOR is found to meet any of the following prohibitions:
- 1) Submitted a false certification as provided under Section 287.135(5), Florida Statutes (2022);
  - 2) Been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to Section 215.473, Florida Statutes (2022); or
  - 3) Been engaged in business operations in Cuba or Syria.
- C. Was entered into or renewed on or after October 1, 2016, through June 30, 2018, and CONTRACTOR is found to meet any of the following conditions:
- 1) Submitted a false certification as provided under Section 287.135(5), Florida Statutes (2022);
  - 2) Been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to Section 215.473, Florida Statutes (2022);
  - 3) Been engaged in business operations in Cuba or Syria; or
  - 4) Been placed on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes (2022) or is engaged in a boycott of Israel.
- D. Was entered into or renewed on or after July 1, 2018, and CONTRACTOR is found to meet any of the following prohibitions:
- 1) Submitted a false certification as provided under Section 287.135(5), Florida Statutes (2022);
  - 2) Been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy



- Sector List, created pursuant to Section 215.473, Florida Statutes (2022);  
or
- 3) Been engaged in business operations in Cuba or Syria.

**24.3 Termination, Any Amount.**

COUNTY may, entirely at its option, terminate this Master Agreement if it is for any amount and meets any of the following criteria.

- A. Was entered into or renewed on or after July 1, 2018, and
- B. CONTRACTOR is found to have been placed on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, Florida Statutes (2022) or is engaged in a boycott of Israel.

**24.4 Comply; Inoperative.**

The Parties agree to comply with Section 287.135, Florida Statutes (2022), as it may change from time to time during the Term. The contracting prohibitions in this Article 24 become inoperative on the date that Federal law ceases to authorize the State of Florida to adopt and enforce such contracting prohibitions.

**ARTICLE 25 - DISCRIMINATORY VENDOR LIST, CONVICTED VENDOR LIST, ANTITRUST VIOLATOR VENDOR LIST.**

- 25.1 CONTRACTOR certifies and assures COUNTY that CONTRACTOR and its affiliate, if any and as defined under the pertinent statutes, has not been placed on the Discriminatory Vendor List pursuant to Section 287.134, Florida Statutes (2022), the Convicted Vendor List pursuant to Section 287.133, Florida Statutes (2022), and the Antitrust Violator Vendor List pursuant to Section 287.137, Florida Statutes (2022). CONTRACTOR acknowledges that absent certain conditions set forth in the respective statutes, those that have been placed on such lists may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier or subcontractor under a contract with a public entity, may not transact business with a public entity, and may not benefit from certain economic incentives.

**ARTICLE 26 - SOVEREIGN IMMUNITY.**

- 26.1 Nothing in this Master Agreement shall be deemed to waive the sovereign immunity protections provided COUNTY pursuant to Florida law. Notwithstanding anything to the contrary set forth in this Master Agreement, COUNTY's obligation to indemnify CONTRACTOR, if any, for any reason or purpose, is limited and shall not exceed the limits set forth in Section 768.28, Florida Statutes (2022).
- 26.2 All representations, indemnifications, warranties and guarantees made in, required by, or given in accordance with this Master Agreement, including but not limited to those specified in this Article 26, as well as all continuing obligations indicated in the Contract Documents, shall survive completion, final payment and acceptance of the Work.

**ARTICLE 27 - NO OBLIGATION BY FEDERAL GOVERNMENT.**

- 27.1 The Federal Government does not and shall not have any commitment or liability related to this Master Agreement or its underlying agreements, to any participant at any tier, or to any other person or entity that is not a party to the underlying agreements.
- 27.2 Disclaimer. The United States expressly disclaims any and all responsibility or liability to the CONTRACTOR or third persons or the actions of the CONTRACTOR or third persons resulting in death, bodily injury, property damages, or other losses resulting in any way from the performance of this Agreement or the Project or any other losses resulting in any way from the performance of this Agreement or the Project.

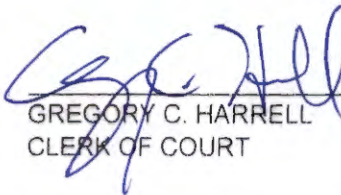
**ARTICLE 28 - COMPLIANCE WITH ASSURANCES.**

- 28.1 Assurances.  
CONTRACTOR shall comply with all applicable assurances made by and/or to between GRANTOR as well as those applicable assurances made by and/or to COUNTY during the Grant application process. CONTRACTOR specifically acknowledges receipt of a copy of all such assurances made and the Parties incorporate the terms and conditions as if stated in full herein.

[This portion of page intentionally left blank. Signature page follows.]


IN WITNESS WHEREOF, the Parties hereto have made and entered into this Master Agreement on the date of the last signature below.

ATTEST:

  
GREGORY C. HARRELL DATE 9/20/2022  
CLERK OF COURT

FOR COUNTY:

MARION COUNTY, a political subdivision of the State of Florida by its Board of County Commissioners

BY:   
CARL ZALAK, III DATE 9/20/2022  
CHAIRMAN

FOR USE AND RELIANCE OF MARION COUNTY ONLY, APPROVED AS TO FORM AND LEGAL SUFFICIENCY

BCC APPROVED:  
ACCEPTANCE DATE: September 20, 2022

  
FOR: MATTHEW MINTER DATE 8/26/2022  
COUNTY ATTORNEY

FOR CONTRACTOR:

QUALITY ENTERPRISES USA, INC.

WITNESSES:

  
SIGNATURE

Isa Carreras  
PRINT NAME

  
SIGNATURE

Marcie Cohen  
PRINT NAME

  
BY: DATE 8/19/22

Louis J. Gaudio  
PRINT NAME

Vice President  
ITS: (TITLE)

**EXHIBIT "A"**  
**SUBSTANTIAL COPY OF STANDARD GRANT AGREEMENT**  
**BETWEEN MARION COUNTY AND U.S. DEPARTMENT OF TREASURY**  
**APPROVED BY COUNTY ON OR ABOUT MAY 13, 2021**

[This portion of the page left intentionally blank. Standard Grant Agreement to follow.]

COPY

OMB Approved No.:1505-0271  
Expiration Date: 11/30/2021

U.S. DEPARTMENT OF THE TREASURY  
CORONAVIRUS LOCAL FISCAL RECOVERY FUND

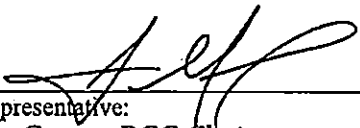
Recipient name and address: Marion County Board of County Commissioners 601 SE 25th ave Ocala, Florida 34471-2690	DUNS Number: 073228454 Taxpayer Identification Number: 596000735 Assistance Listing Number and Title: 21.019
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Sections 602(b) and 603(b) of the Social Security Act (the Act) as added by section 9901 of the American Rescue Plan Act, Pub. L. No. 117-2 (March 11, 2021) authorize the Department of the Treasury (Treasury) to make payments to certain recipients from the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Fund.

Recipient hereby agrees, as a condition to receiving such payment from Treasury, to the terms attached hereto.

Recipient:

Jeff Gold



Authorized Representative:

Title: Marion County BCC Chairman

Date signed: May 13, 2021

U.S. Department of the Treasury:

Authorized Representative:

Title:

Date signed:

**PAPERWORK REDUCTION ACT NOTICE**

The information collected will be used for the U.S. Government to process requests for support. The estimated burden associated with this collection of information is 15 minutes per response. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Privacy, Transparency and Records, Department of the Treasury, 1500 Pennsylvania Ave., N.W., Washington, D.C. 20220. DO NOT send the form to this address. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

U.S. DEPARTMENT OF THE TREASURY  
CORONAVIRUS LOCAL FISCAL RECOVERY FUND  
AWARD TERMS AND CONDITIONS

1. Use of Funds.

- a. Recipient understands and agrees that the funds disbursed under this award may only be used in compliance with section 603(c) of the Social Security Act (the Act), Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
- b. Recipient will determine prior to engaging in any project using this assistance that it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of such project.

2. Period of Performance. The period of performance for this award begins on the date hereof and ends on December 31, 2026. As set forth in Treasury's implementing regulations, Recipient may use award funds to cover eligible costs incurred during the period that begins on March 3, 2021, and ends on December 31, 2024.

3. Reporting. Recipient agrees to comply with any reporting obligations established by Treasury as they relate to this award.

4. Maintenance of and Access to Records

- a. Recipient shall maintain records and financial documents sufficient to evidence compliance with section 603(c) of the Act, Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
- b. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of Recipient in order to conduct audits or other investigations.
- c. Records shall be maintained by Recipient for a period of five (5) years after all funds have been expended or returned to Treasury, whichever is later.

5. Pre-award Costs. Pre-award costs, as defined in 2 C.F.R. § 200.458, may not be paid with funding from this award.

6. Administrative Costs. Recipient may use funds provided under this award to cover both direct and indirect costs.

7. Cost Sharing. Cost sharing or matching funds are not required to be provided by Recipient.

8. Conflicts of Interest. Recipient understands and agrees it must maintain a conflict of interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict of interest policy is applicable to each activity funded under this award. Recipient and subrecipients must disclose in writing to Treasury or the pass-through entity, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112.

9. Compliance with Applicable Law and Regulations.

- a. Recipient agrees to comply with the requirements of section 602 of the Act, regulations adopted by Treasury pursuant to section 602(f) of the Act, and guidance issued by Treasury regarding the foregoing. Recipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Recipient shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.
- b. Federal regulations applicable to this award include, without limitation, the following:
  - i. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.
  - ii. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.
  - iii. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
  - iv. OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.

- v. Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
  - vi. Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
  - vii. New Restrictions on Lobbying, 31 C.F.R. Part 21.
  - viii. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.
  - ix. Generally applicable federal environmental laws and regulations.
- c. Statutes and regulations prohibiting discrimination applicable to this award include, without limitation, the following:
- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;
  - ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
  - iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
  - iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
  - v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.
10. Remedial Actions. In the event of Recipient's noncompliance with section 602 of the Act, other applicable laws, Treasury's implementing regulations, guidance, or any reporting or other program requirements, Treasury may impose additional conditions on the receipt of a subsequent tranche of future award funds, if any, or take other available remedies as set forth in 2 C.F.R. § 200.339. In the case of a violation of section 602(c) of the Act regarding the use of funds, previous payments shall be subject to recoupment as provided in section 602(e) of the Act and any additional payments may be subject to withholding as provided in sections 602(b)(6)(A)(ii)(III) of the Act, as applicable.
11. Hatch Act. Recipient agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.
12. False Statements. Recipient understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or contracts, and/or any other remedy available by law.
13. Publications. Any publications produced with funds from this award must display the following language: "This project [is being] [was] supported, in whole or in part, by federal award number [enter project FAIN] awarded to [name of Recipient] by the U.S. Department of the Treasury."
14. Debts Owed the Federal Government.
- a. Any funds paid to Recipient (1) in excess of the amount to which Recipient is finally determined to be authorized to retain under the terms of this award; (2) that are determined by the Treasury Office of Inspector General to have been misused; or (3) that are determined by Treasury to be subject to a repayment obligation pursuant to sections 602(e) and 603(b)(2)(D) of the Act and have not been repaid by Recipient shall constitute a debt to the federal government.
  - b. Any debts determined to be owed the federal government must be paid promptly by Recipient. A debt is delinquent if it has not been paid by the date specified in Treasury's initial written demand for payment, unless other satisfactory arrangements have been made or if the Recipient knowingly or improperly retains funds that are a debt as defined in paragraph 14(a). Treasury will take any actions available to it to collect such a debt.
15. Disclaimer.

- a. The United States expressly disclaims any and all responsibility or liability to Recipient or third persons for the actions of Recipient or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any other losses resulting in any way from the performance of this award or any contract, or subcontract under this award.
- b. The acceptance of this award by Recipient does not in any way establish an agency relationship between the United States and Recipient.

16. Protections for Whistleblowers.

- a. In accordance with 41 U.S.C. § 4712, Recipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.
  - b. The list of persons and entities referenced in the paragraph above includes the following:
    - i. A member of Congress or a representative of a committee of Congress;
    - ii. An Inspector General;
    - iii. The Government Accountability Office;
    - iv. A Treasury employee responsible for contract or grant oversight or management;
    - v. An authorized official of the Department of Justice or other law enforcement agency;
    - vi. A court or grand jury; or
    - vii. A management official or other employee of Recipient, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct.
  - c. Recipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.
17. Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Recipient should encourage its contractors to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.
18. Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Recipient should encourage its employees, subrecipients, and contractors to adopt and enforce policies that ban text messaging while driving, and Recipient should establish workplace safety policies to decrease accidents caused by distracted drivers.



**ASSURANCES OF COMPLIANCE WITH CIVIL RIGHTS REQUIREMENTS  
ASSURANCES OF COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964**

As a condition of receipt of federal financial assistance from the Department of the Treasury, the recipient named below (hereinafter referred to as the "Recipient") provides the assurances stated herein. The federal financial assistance may include federal grants, loans and contracts to provide assistance to the Recipient's beneficiaries, the use or rent of Federal land or property at below market value, Federal training, a loan of Federal personnel, subsidies, and other arrangements with the intention of providing assistance. Federal financial assistance does not encompass contracts of guarantee or insurance, regulated programs, licenses, procurement contracts by the Federal government at market value, or programs that provide direct benefits.

The assurances apply to all federal financial assistance from or funds made available through the Department of the Treasury, including any assistance that the Recipient may request in the future.

The Civil Rights Restoration Act of 1987 provides that the provisions of the assurances apply to all of the operations of the Recipient's program(s) and activity(ies), so long as any portion of the Recipient's program(s) or activity(ies) is federally assisted in the manner prescribed above.

1. Recipient ensures its current and future compliance with Title VI of the Civil Rights Act of 1964, as amended, which prohibits exclusion from participation, denial of the benefits of, or subjection to discrimination under programs and activities receiving federal financial assistance, of any person in the United States on the ground of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury Title VI regulations at 31 CFR Part 22 and other pertinent executive orders such as Executive Order 13166, directives, circulars, policies, memoranda, and/or guidance documents.
2. Recipient acknowledges that Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency," seeks to improve access to federally assisted programs and activities for individuals who, because of national origin, have Limited English proficiency (LEP). Recipient understands that denying a person access to its programs, services, and activities because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the Department of the Treasury's implementing regulations. Accordingly, Recipient shall initiate reasonable steps, or comply with the Department of the Treasury's directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. Recipient understands and agrees that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in the Recipient's programs, services, and activities.
3. Recipient agrees to consider the need for language services for LEP persons when Recipient develops applicable budgets and conducts programs, services, and activities. As a resource, the Department of the Treasury has published its LEP guidance at 70 FR 6067. For more information on taking reasonable steps to provide meaningful access for LEP persons, please visit <http://www.lep.gov>.
4. Recipient acknowledges and agrees that compliance with the assurances constitutes a condition of continued receipt of federal financial assistance and is binding upon Recipient and Recipient's successors, transferees, and assignees for the period in which such assistance is provided.
5. Recipient acknowledges and agrees that it must require any sub-grantees, contractors, subcontractors, successors, transferees, and assignees to comply with assurances 1-4 above, and agrees to incorporate the following language in every contract or agreement subject to Title VI and its regulations between the Recipient and the Recipient's sub-grantees, contractors, subcontractors, successors, transferees, and assignees:

*The sub-grantee, contractor, subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement.*

6. Recipient understands and agrees that if any real property or structure is provided or improved with the aid of federal financial assistance by the Department of the Treasury, this assurance obligates the Recipient, or in the case of a subsequent transfer, the transferee, for the period during which the real property or structure is used for a purpose for which the federal

financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is provided, this assurance obligates the Recipient for the period during which it retains ownership or possession of the property.

7. Recipient shall cooperate in any enforcement or compliance review activities by the Department of the Treasury of the aforementioned obligations. Enforcement may include investigation, arbitration, mediation, litigation, and monitoring of any settlement agreements that may result from these actions. The Recipient shall comply with information requests, on-site compliance reviews and reporting requirements.
8. Recipient shall maintain a complaint log and inform the Department of the Treasury of any complaints of discrimination on the grounds of race, color, or national origin, and limited English proficiency covered by Title VI of the Civil Rights Act of 1964 and implementing regulations and provide, upon request, a list of all such reviews or proceedings based on the complaint, pending or completed, including outcome. Recipient also must inform the Department of the Treasury if Recipient has received no complaints under Title VI.
9. Recipient must provide documentation of an administrative agency's or court's findings of non-compliance of Title VI and efforts to address the non-compliance, including any voluntary compliance or other agreements between the Recipient and the administrative agency that made the finding. If the Recipient settles a case or matter alleging such discrimination, the Recipient must provide documentation of the settlement. If Recipient has not been the subject of any court or administrative agency finding of discrimination, please so state.
10. If the Recipient makes sub-awards to other agencies or other entities, the Recipient is responsible for ensuring that sub-recipients also comply with Title VI and other applicable authorities covered in this document. State agencies that make sub-awards must have in place standard grant assurances and review procedures to demonstrate that they are effectively monitoring the civil rights compliance of subrecipients.

The United States of America has the right to seek judicial enforcement of the terms of this assurance document and nothing in this document alters or limits the federal enforcement measures that the United States may take in order to address violations of this document or applicable federal law.

Under penalty of perjury, the undersigned official(s) certifies that official(s) has read and understood the Recipient's obligations as herein described, that any information submitted in conjunction with this assurance document is accurate and complete, and that the Recipient is in compliance with the aforementioned nondiscrimination requirements.

Marion County Board of County Commissioners

Recipient

May 13, 2021

Date

Jeff Gold

Signature of Authorized Official

**PAPERWORK REDUCTION ACT NOTICE**

The information collected will be used for the U.S. Government to process requests for support. The estimated burden associated with this collection of information is 30 minutes per response. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Privacy, Transparency and Records, Department of the Treasury, 1500 Pennsylvania Ave., N.W., Washington, D.C. 20220. DO NOT send the form to this address. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

**EXHIBIT B**

**American Rescue Plan Act ("ARPA") Contract Clauses**

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COPY

***The following clauses and certifications (collectively, "ARPA Contract Clauses") will be incorporated into contracts under the requirements of the American Rescue Plan Act ("ARPA"). The term "Contract" shall refer to any agreement between COUNTY and CONTRACTOR, including without limitation the Master Agreement and/or any amendments thereto containing COUNTY's Standard Terms and Conditions, and these ARPA Contract Clauses. In case of conflict between these ARPA Contract Clauses and the Standard Terms and Conditions, the ARPA Contract Clauses shall take precedence.***

**1. COMPLIANCE WITH APPLICABLE LAW AND REGULATIONS**

- A. Contractor agrees to comply with the requirements of section 603 of section 603(c) of the Social Security Act (the "Act"), as added by section 9901 of ARPA, regulations adopted by the U.S. Department of Treasury ("Treasury") pursuant to section 603(f) of the Act, and guidance issued by Treasury regarding the foregoing. Contractor also agrees to comply with all other applicable Federal statutes, regulations, and executive orders, and Contractor shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this Contract.
- B. CONTRACTOR shall provide the following information to COUNTY and GRANTOR, if applicable to the Project:
  - a) National Pollutant Discharge Elimination System (NPDES) Permit Number.
  - b) Public Water System (PWS) ID number.
- C. Federal regulations applicable to this Contract include, without limitation, the following:
  - 1. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to the funds awarded to Marion County ("COUNTY") under ARPA, and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.
  - 2. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference. To clarify, CONTRACTOR is required to provide its unique entity identifier to COUNTY. Compliance with the Universal Identifier and System for Award Management is a requirement that is passed on and includes, but is not limited to, CONTRACTOR, subcontractors, subconsultants, and Suppliers.
  - 3. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
  - 4. OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Non-procurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.
  - 5. Contractor Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference and applies to grant awards over \$150,000.

6. Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20, which states: "Drug-free workplace means a site for the performance of work done in connection with a specific award at which employees of CONTRACTOR are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance."
7. New Restrictions on Lobbying, 31 C.F.R. Part 21.
8. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations and which applies to the acquisition of real property (real estate) or displace persons from their homes, businesses, or farms.
9. Generally applicable Federal environmental laws and regulations, including but not limited to, when applicable:
  - (i) Flood Disaster Protection  
In accordance with the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. §4001), CONTRACTOR shall assure that for activities located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).
  - (ii) Asbestos:
    - a. The Asbestos National Emission Standards for Hazardous Air Pollutants ("NESHAP") regulations specify Work practices for asbestos to be followed during demolitions and renovations of all structures, buildings and facilities. CONTRACTOR shall notify or shall require its operator/contractor of renovation or demolition to notify COUNTY and the appropriate State agency before any demolition, or before any renovations of buildings that could contain a certain threshold amount of asbestos or asbestos-containing material. CONTRACTOR shall contact or require its operator of renovation or demolition to contact the local DEP (Department of Environmental Protection) as they are delegated by the U.S. EPA and authorized under the Florida Statutes (2022) to enforce the asbestos NESHAR regulations. Costs incurred from asbestos testing and abatement will be at CONTRACTOR's expense.
    - b. In the event that asbestos-containing materials or suspected asbestos-containing materials are discovered in the area designated for construction, CONTRACTOR assumes responsibility to notify COUNTY, and all Workers of existing asbestos conditions. Notification shall be made on approved EPA Forms and includes posting of notices in accordance with EPA and OSHA Guidelines. CONTRACTOR shall assume all responsibility for compliance with applicable codes and regulations regarding discovery and notification of the presence of asbestos-containing material. Work shall not continue until CONTRACTOR, has the suspected asbestos-containing materials analyzed. This will be done promptly by CONTRACTOR. If CONTRACTOR proceeds after notification by

COUNTY not to proceed, the LICENSED CONTRACTOR shall become liable for all costs associated with the cleaning and clearance for occupancy (using TEM clearance testing method set out by the AHERA Regulations) of the structure or site.

- c. CONTRACTOR will notify the architect and/or engineer (as applicable) and COUNTY in writing immediately upon becoming aware of any material and/or equipment included in the Contract Documents that contain asbestos so that alternative material and/or equipment can be submitted. CONTRACTOR, architect and/or engineer, material and equipment suppliers, and material and equipment manufacturers who provide material and equipment that contain asbestos will be liable for the cost of removal of such material and equipment from the Project and the CONTRACTOR shall obtain the acknowledgment of the architect and/or engineer and all such suppliers and manufacturers of their liability for such removal.

- (iii) Historic Preservation:  
CONTRACTOR agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470) and the procedures set forth in 36 C.F.R. Part 800, Advisory Council on Historic reservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this Agreement. In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty (50) years old or older or that are included on a Federal, State, or local historic property list.

D. Statutes and regulations prohibiting discrimination applicable to this Contract include, without limitation, the following:

1. Grant Recipients (COUNTY) awarded a new Federal grant greater than or equal to \$30,000 awarded on or after October 1, 2015, are subject to the FFATA the Federal Funding Accountability and Transparency Act ("FFATA") of 2006. The FFATA legislation requires that information on Federal awards (Federal financial assistance and expenditures) be made available to the public via a single, searchable website, which is [www.USASpending.gov](http://www.USASpending.gov). CONTRACTOR agrees to provide the information necessary, within one (1) month of execution, for COUNTY to comply with this requirement.
2. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d, *et seq.*) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving Federal financial assistance;
3. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601, *et seq.*), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
4. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving Federal financial assistance;
5. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101, *et seq.*), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit

discrimination on the basis of age in programs or activities receiving Federal financial assistance; and

- E. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101, et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by State and local governments or instrumentalities or agencies thereto. ARPA funds may only be used to pay for or reimburse eligible costs as described in the Contract, including without limitation the Purchase Order and these ARPA Contract Terms. No funds may be used to pay or reimburse costs for which CONTRACTOR has received any other funding, whether State, Federal or private in nature.
- F. CONTRACTOR shall execute and meet the requirements of the following, each of which is incorporated herein by reference: Certificate of Non-Debarment or Suspension, Civil Rights Certification Form, Lobbying Certification Form (if applicable), and Lobbying Disclosure Form (if applicable).
- G. **Prior to any payment by COUNTY under the Contract, CONTRACTOR shall submit an invoice, a Cost Certification, and any supporting documentation.**

2. **SIMPLIFIED ACQUISITION THRESHOLD**

Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. § 1908, or otherwise set by law, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. (Note that the simplified acquisition threshold determines the procurement procedures that must be employed pursuant to 2 C.F.R. §§ 200.317–200.327.) The simplified acquisition threshold does not exempt a procurement from other eligibility or processes requirements that may apply.

3. **ACCESS TO RECORDS**

CONTRACTOR shall maintain complete, accurate, and readily accessible records related in whole or in part to the Contract, including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontracts, arrangements, other third-party agreements of any type, and supporting materials related to those records, sufficient to evidence compliance with section 603(c) of the Act, Treasury's regulations implementing that section, and guidance issued by the Treasury regarding the foregoing.

All such records shall be available to COUNTY, the Treasury Office of Inspector General, and The Government Accountability Office, or their authorized representatives for inspection at any time during this Contract. CONTRACTOR shall maintain all books, records, accounts and reports required under this Contract for a period of six (6) years after all funds have been expended or returned to COUNTY, whichever is later, to ensure proper accounting for all funds and compliance with all applicable laws, regulations, and guidance.

COUNTY, the Treasury Office of Inspector General, and the Government Accountability Office, or their authorized representatives, shall have the right of access to records, electronic and otherwise, of CONTRACTOR in order to conduct audits or other investigations. CONTRACTOR acknowledges that records may be subject to disclosure under the public records laws of Florida.

4. **UNIFORM GUIDANCE COMPLIANCE.**

- A. **Remedial Actions.** In the event of CONTRACTOR's noncompliance with section 603(c) of the Act, Treasury's regulations implementing that section, guidance issued by Treasury regarding the foregoing, or any other applicable Federal laws or regulations, Treasury may



take available remedial actions as set forth in 2 C.F.R. 200.339.

**B. Recoupment**

CONTRACTOR agrees that it is financially responsible for and will repay COUNTY, and ultimately the Federal government, any and all indicated amounts following an audit exception which occurs due to CONTRACTOR's failure, for any reason, to comply with the terms of the Contract. This duty to repay COUNTY shall not be diminished or extinguished by the termination of the Contract.

In the event of a violation of section 603(c) of the Act, the funds shall be subject to recoupment by COUNTY.

Any funds paid to CONTRACTOR (1) in excess of the amount to which CONTRACTOR is authorized to retain under the terms of CONTRACTOR; (2) that are determined by the Treasury Office of Inspector General to have been misused; (3) are determined by Treasury to be subject to a repayment obligation pursuant to section 603(e) of the Act; or (4) are otherwise subject to recoupment by COUNTY, and have not been repaid by CONTRACTOR to COUNTY shall constitute a debt to COUNTY and/or the Federal government.

Any debts determined to be owed COUNTY and/or the Federal government must be paid promptly by CONTRACTOR. A debt is delinquent if it has not been paid by the date specified in COUNTY's initial written demand for payment, unless other satisfactory arrangements have been made or if the County knowingly or improperly retains funds that are a debt. COUNTY will take any actions available to it to collect such a debt.

Return of Unused Funds. If CONTRACTOR has any funds on hand and/or funds not yet obligated, as of the earlier of December 31, 2024, or the termination of this Contract, CONTRACTOR shall return all unspent funds to COUNTY within ten (10) calendar days.

**5. DISCLAIMER**

The United States expressly disclaims any and all responsibility or liability to CONTRACTOR or third persons for the actions of CONTRACTOR or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of CONTRACTOR or any other losses resulting in any way from the performance of the Contract, or any subcontract.

The acceptance of this Contract by CONTRACTOR does not in any way establish an agency relationship between the United States and CONTRACTOR.

**6. TERMINATION**

A. For contracts in excess of \$10,000 awarded by COUNTY must address the termination for cause and for convenience, including the manner by which it will be affected and the basis for settlement. This clause extends to all third-party contractors and their contracts at every tier and contractors and their subcontracts at every tier.

B. Termination for cause and for convenience, are found in the Master Agreement

**7. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS**

CONTRACTOR understands that making false statements or claims in connection with this Contract is a violation of Federal law and may result in criminal, civil, or administrative sanctions,

including fines, imprisonment, civil damages and penalties, debarment from participating in Federal awards or contracts, and/or any other remedy available by law.

CONTRACTOR acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801, *et seq.* apply to its actions pertaining to this Contract. Upon execution of the underlying contract, CONTRACTOR certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract for which this contract work is being performed. In addition to other penalties that may be applicable, CONTRACTOR further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on CONTRACTOR to the extent to the Federal Government deems appropriate.

8. **EQUAL OPPORTUNITY EMPLOYMENT**

COUNTY is an Equal Opportunity Employer. As such, COUNTY and all third-party contractors and their subcontractors agree to prohibit discrimination based on race, color, religion, sex, sexual orientation, gender identity, or national origin, and comply with all applicable Federal civil rights laws and implementing regulations.

During the performance of this Contract, CONTRACTOR shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

- 1) CONTRACTOR will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. 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, sexual orientation, gender identity, or national origin.
- 2) CONTRACTOR will, in all solicitations or advertisements for employees placed by or on behalf of CONTRACTOR, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- 3) CONTRACTOR will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- 4) 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.
- 5) 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.

- 6) 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.
- 7) In the event of 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 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.
- 8) CONTRACTOR will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) 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 supplier. 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 supplier as a result of such direction by the administering agency, CONTRACTOR may request the United States to enter into such litigation to protect the interests of the United States.

CONTRACTOR further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in Federally assisted construction work: Provided, that if CONTRACTOR so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

CONTRACTOR agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

CONTRACTOR further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and Federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, CONTRACTOR agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund

occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the United States Department of Justice for appropriate legal proceedings.

9. **PREVAILING WAGE AND ANTI-KICKBACK**

CONTRACTOR shall comply with the Davis-Bacon Act and the Copeland "Anti-Kickback" Act. CONTRACTOR must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. §§ 3141 – 3144 and 3146 – 3148) as supplemented by United States Department of Labor regulations at 29 C.F.R. Part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction." CONTRACTOR shall also comply with the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations at 29 C.F.R. Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States." CONTRACTOR is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which they are otherwise entitled.

A. Compliance with the Davis-Bacon Act, as amended (40 U.S.C. §§ 3141 – 3148).

- 1) CONTRACTOR shall comply with the Davis-Bacon Act (40 U.S.C. §§ 3141 – 3144 and 3146 – 3148) and the requirements of 29 C.F.R. Part 5 as may be applicable, which are incorporated by reference into this contract.
- 2) In accordance with the statute, Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.
- 3) Additionally, Contractors are required to pay wages not less than once a week.

B. Compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145).

- 1) CONTRACTOR shall comply with the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145) and the requirements of 29 C.F.R. Part 3 as may be applicable, which are incorporated by reference into this contract.
- 2) CONTRACTOR or subcontractor shall insert in any subcontracts the clause above and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
- 3) In accordance with the statute, each contractor and subcontractor must furnish each week a statement with respect to the wages paid each of its employees engaged in work covered by the Copeland Anti-Kickback Act and the Davis Bacon Act during the preceding weekly payroll period. The report shall be delivered by the contractor or subcontractor, within seven (7) days after the regular payment-date of the payroll period, to a representative of COUNTY in charge at the site of the building or work.

10. **CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

For all contracts in excess of \$100,000 that involve the employment of mechanics or laborers, must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by United States Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. § 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer based on a standard work week of forty (40) hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times

the basic rate of pay for all hours worked in excess of forty (40) hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

In the event of any violation of the clause set forth herein, CONTRACTOR and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, 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 this clause in the sum of \$27.00 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 this clause.

COUNTY shall upon its own action or upon written request of an authorized representative of the United States Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by CONTRACTOR or subcontractor under any such contract or any other Federal contract with the same prime Contractor, or any other Federally assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime 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 this section.

CONTRACTOR or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this Contract.

11. **CONTRACT WORK HOURS AND SAFETY STANDARDS FOR AWARDS NOT INVOLVING CONSTRUCTION**

CONTRACTOR shall comply with all Federal laws, regulations, and requirements providing wage and hour protections for non-construction employees, in accordance with 40 U.S.C. § 3702, Contract Work Hours and Safety Standards Act, and other relevant parts of that Act, 40 U.S.C. § 3701, *et seq.*, and U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Non-construction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 C.F.R. Part 5.

CONTRACTOR shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of six (6) years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.

Such records maintained under this paragraph shall be made available by CONTRACTOR for inspection, copying, or transcription by authorized representatives of COUNTY and the United States Department of Labor, and CONTRACTOR will permit such representatives to interview employees during working hours on the job.

CONTRACTOR shall require the inclusion of the language of this clause within subcontracts of all tiers.

12. **RIGHT TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT**

If the Federal award meets the definition of "funding agreement" under 37 C.F.R. § 401.2(a) and CONTRACTOR wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the non-Federal entity must comply with the requirements of 37 C.F.R. Part 401 (Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements), and any implementing regulations issued by United States Department of Treasury. The regulation at 37 C.F.R. § 401.2(a) defines "funding agreement" as any contract, grant, or cooperative agreement entered into between any Federal agency, and any contractor for the performance of experimental, developmental, or research work funded in whole or in part by the Federal government. This term also includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of experimental, developmental, or research work under a funding agreement as defined in the first sentence of this paragraph.

13. **CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT**

For all contracts in excess of \$150,000, CONTRACTOR agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act as amended 42 U.S.C. §§ 7401-7671q, and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251-1387).

A. Compliance with the Clean Air Act

- 1) CONTRACTOR agrees to report each violation to COUNTY and understands and agrees that COUNTY will, in turn, report each violation as required to assure notification to the United States Department of the Treasury, and the appropriate Environmental Protection Agency Regional Office.
- 2) CONTRACTOR agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by the U.S. Department of Treasury.

B. Compliance with the Federal Water Pollution Control Act

- 1) CONTRACTOR agrees to report each violation to COUNTY and understands and agrees that COUNTY will, in turn, report each violation as required to assure notification to the United States Department of the Treasury, and the appropriate Environmental Protection Agency Regional Office.
- 2) CONTRACTOR agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by Treasury.

14. **SUSPENSION AND DEBARMENT**

This Contract is a covered transaction for purposes of 2 C.F.R. Part 180, and 2 C.F.R. Part 3000. As such, CONTRACTOR is required to verify that none of CONTRACTOR's 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).

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

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

CONTRACTOR agrees to comply with the requirements of 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C, while this offer is valid and throughout the period of any contract that may arise from this offer. CONTRACTOR further agrees to include a provision requiring such compliance in its lower tier covered transactions.

15. **LOBBYING**

A. **For contracts in excess of \$100,000**, CONTRACTOR shall file the certification required by 49 C.F.R. Part 20, "New Restrictions of Lobbying", as provided by COUNTY. 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 must 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 CONTRACTOR who in turn will forward the certification(s) to COUNTY.

B. **Additional Lobbying Requirements.**

- a) CONTRACTOR certifies that no funds provided under this Agreement have been used or will be used to engage in the lobbying of the Federal Government or in litigation against the United States unless authorized under existing law.
- b) The Lobbying Disclosure Act of 1995, as amended (2 U.S.C. 1601, *et seq.*), prohibits any organization described in Section 501(c)(4) of the Internal Revenue Code, from receiving Federal funds through an award, grant (and/or subgrant) or loan unless such organization warrants that it does not, and will not engage in lobbying activities prohibited by the Act as a special condition of such an award, grant (and/or subgrant), or loan. This restriction does not apply to loans made pursuant to approved revolving loan programs or to contracts awarded using proper procurement procedures.
- c) Pursuant to 2 C.F.R. 200.450 and 2 C.F.R. 200.454(e), CONTRACTOR is hereby prohibited from using funds provided by this Agreement for membership dues to any entity or organization engaged in lobbying activities.

16. **PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT**

CONTRACTOR is prohibited from obligating or expending loan or grant funds to procure or obtain; extend or renew a contract to procure or obtain; or enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. See Section 889 of Public Law 115-232 (National Defense Authorization Act 2019). Also, see 2 C.F.R. 200.216 and 200.471. This prohibition is passed on to each and every tier.

17. **DOMESTIC PREFERENCES FOR PROCUREMENT**

CONTRACTOR must, to the greatest extent practical, give preference to the purchase, acquisition, or use of goods, products, or materials produced in the United States in accordance with 2 C.F.R. 200.322. CONTRACTOR shall pass this preference on to each and every tier.

18. **PROCUREMENT OF RECOVERED MATERIALS**

The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where **the purchase price of the item exceeds \$10,000** or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

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

1. Competitively within a timeframe providing for compliance with the contract performance schedule;
2. Meeting contract performance requirements; or
3. At a reasonable price.

CONTRACTOR agrees to provide a preference for those products and services that conserve natural resources, protect the environment, and are energy efficient by complying with and facilitating compliance with Section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962, and U.S. Environmental Protection Agency, "Comprehensive Procurement Guideline for Products Containing Recovered Materials," 40 C.F.R. Part 247.

CONTRACTOR also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

19. **HATCH ACT**

CONTRACTOR agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this Federal assistance.

20. **PUBLICATIONS**

Any publications produced with funds from this award must display the following language: "This project [is being] [was] supported, in whole or in part, by Federal award to Marion County by the United States Department of the Treasury."

21. **CONFLICTS OF INTEREST**

CONTRACTOR understands and agrees it must maintain a conflict-of-interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict-of-interest policy is applicable to each activity funded under this award. CONTRACTOR must disclose in writing to COUNTY, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112.



22. **COMPLIANCE WITH THE TRAFFICKING VICTIMS PROTECTION ACT OF 2000 (2 C.F.R. PART 175)**

CONTRACTOR, subconsultants, subcontractors and suppliers and their respective employees, under the award funding this Agreement, may not:

- a) Engage in severe forms of trafficking in persons during the period of time that the award funding this Agreement is in effect;
- b) Procure a commercial sex act during the period of time that the award funding this Agreement is in effect;
- c) Use forced labor in the performance of the award of subawards under the award funding this Agreement.

23. **PROTECTIONS FOR WHISTLEBLOWERS**

In accordance with 41 U.S.C. § 4712, Contractor may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a Federal contract or grant, a gross waste of Federal funds, an abuse of authority relating to a Federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a Federal contract (including the competition for or negotiation of a contract) or grant.

The list of persons and entities referenced in the paragraph above includes the following:

1. A member of Congress or a representative of a committee of Congress;
2. An Inspector General;
3. The Government Accountability Office;
4. A Treasury employee responsible for contract or grant oversight or management;
5. An authorized official of the United States Department of Justice or other law enforcement agency;
6. A court or grand jury; or
7. A management official or other employee of CONTRACTOR, or subcontractor who has the responsibility to investigate, discover, or address misconduct.

CONTRACTOR shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

24. **INCREASING SEAT BELT USE IN THE UNITED STATES**

Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), COUNTY encourages its contractors to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

25. **REDUCING TEXT MESSAGING WHILE DRIVING**


Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), COUNTY encourages its employees, subcontractors, and contractors to adopt and enforce policies that ban text messaging

while driving, and CONTRACTOR to establish workplace safety policies to decrease accidents caused by distracted drivers.

*By signing this Exhibit B, the Contractor certifies that, in addition to agreeing to the terms and conditions provided herein, it has read, understands, and agrees to be bound by all requirements and contract terms and conditions contained herein.*

*Further, by signing below you acknowledge that knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. § 1001 (False Statements) and could subject you to fines, imprisonment, or both.*

*This agreement may be signed by ink signature, copy of ink signature, copy of signature, e-signature or any other form of signature. By signing the agreement, the company agrees that its signature will have the same legal effect as an original ink signature.*

Company Name: Quality Enterprises USA, Inc.	
Authorizing Official Name: Louis J Gaudio	Authorizing Official Title: Vice President
Authorizing Official Signature and Date: 	

**CERTIFICATE OF NON-DEBARMENT / SUSPENSION**

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER  
INELIGIBILITY AND VOLUNTARY EXCLUSION  
LOWER TIER COVERED TRANSACTIONS**

The Lower Tier Participant (Applicant for a third-party subcontract or subgrant under a Federal funded project), **QUALITY ENTERPRISES USA, INC.** referred to as Contractor, certifies, by submission of this document, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal department or agency.

Where the Contractor is unable to certify to any of the statements in this certification, such Contractor must attach an explanation to this submittal.

The Contractor, **QUALITY ENTERPRISES USA, INC.** certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification and understands that the provisions of 31 U.S.C. Section 3801, *et seq.* are applicable thereto. Further, by signing below you acknowledge that knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. § 1001 (False Statements) and could subject you to fines, imprisonment, or both.



Louis J Gaudio

Signature of Authorized Official

Vice President

Title of Authorized Official

8/19/2022

Date

**THIS FORM MUST BE COMPLETED BY THE PRIME CONTRACTOR AND ANY SUB-TIER CONTRACTOR THAT WILL BE AFFILIATED WITH THE WORK LISTED ON THE ATTACHED DOCUMENTS.**

## CIVIL RIGHTS CERTIFICATION FORM

The funds provided to the Contractor are available under section 603 of the Social Security Act, as added by section 9901 of the American Rescue Plan Act.

Contractor understands and acknowledges that:

As a condition of receipt of Federal financial assistance from the United States Department of the Treasury, with monies distributed through Marion County, Florida, Contractor provides the assurances stated herein. The Federal financial assistance may include Federal grants, loans and contracts to provide assistance to Contractor, the use or rent of Federal land or property at below market value, Federal training, a loan of Federal personnel, subsidies, and other arrangements with the intention of providing assistance. Federal financial assistance does not encompass contracts of guarantee or insurance, regulated programs, licenses, procurement contracts by the Federal government at market value, or programs that provide direct benefits.

The Civil Rights Restoration Act of 1987 provides that the provisions of the assurances apply to all of the operations of Contractor's program(s) and activity(ies), so long as any portion of Contractor's program(s) or activity(ies) is Federally assisted in the manner prescribed above

Contractor certifies the following:

1. Contractor ensures its current and future compliance with Title VI of the Civil Rights Act of 1964, as amended, which prohibits exclusion from participation, denial of the benefits of, or subjection to discrimination under programs and activities receiving Federal financial assistance, of any person in the United States on the ground of race, color, or national origin (42 U.S.C. § 2000d, *et seq.*), as implemented by the United States Department of the Treasury Title VI regulations at 31 CFR Part 22 and other pertinent executive orders such as Executive Order 13166, directives, circulars, policies, memoranda, and/or guidance documents.
2. Contractor acknowledges that Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency," seeks to improve access to Federally assisted programs and activities for individuals who, because of national origin, have Limited English proficiency (LEP). Contractor understands that denying a person access to its programs, services, and activities because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the United States Department of the Treasury's implementing regulations. Accordingly, Contractor shall initiate reasonable steps, or comply with the Department of the Treasury's directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. Contractor understands and agrees that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in Contractor's programs, services, and activities.
3. Contractor agrees to consider the need for language services for LEP persons when Contractor develops applicable budgets and conducts programs, services, and activities. As a resource, the Department of the Treasury has published its LEP guidance at 70 FR 6067. For more information on taking reasonable steps to provide meaningful access for LEP persons, please visit <http://www.lep.gov>.
4. Contractor acknowledges and agrees that compliance with the assurances constitutes a condition of continued receipt of Federal financial assistance and is binding upon Contractor and its successors, transferees, and assignees for the period in which such assistance is provided.
5. Contractor shall comply with Title VI of the Civil Rights Act of 1964, which prohibits Contractors of Federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d, *et seq.*), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this Contract. Title VI also

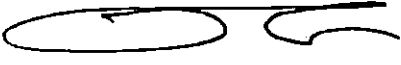
includes protection to persons with "Limited English Proficiency" in any program or activity receiving Federal financial assistance, 42 U.S.C. § 2000d, *et seq.*, as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract.

6. Contractor understands and agrees that if any real property or structure is provided or improved with the aid of Federal financial assistance by the Department of the Treasury, this assurance obligates Contractor, or in the case of a subsequent transfer, the transferee, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is provided, this assurance obligates the Contractor for the period during which it retains ownership or possession of the property.
7. Contractor shall cooperate in any enforcement or compliance review activities by the Department of the Treasury of the aforementioned obligations. Enforcement may include investigation, arbitration, mediation, litigation, and monitoring of any settlement agreements that may result from these actions. Contractor shall comply with information requests, on-site compliance reviews and reporting requirements.
8. Contractor shall maintain a complaint log and inform the Department of the Treasury of any complaints of discrimination on the grounds of race, color, or national origin, and limited English proficiency covered by Title VI of the Civil Rights Act of 1964 and implementing regulations and provide, upon request, a list of all such reviews or proceedings based on the complaint, pending or completed, including outcome. Contractor also must inform the Department of the Treasury if Contractor has received no complaints under Title VI.
9. Contractor must provide documentation of an administrative agency's or court's findings of non-compliance of Title VI and efforts to address the non-compliance, including any voluntary compliance or other agreements between the Contractor and the administrative agency that made the finding. If Contractor settles a case or matter alleging such discrimination, Contractor must provide documentation of the settlement. If Contractor has not been the subject of any court or administrative agency finding of discrimination, please so state.
10. The United States of America has the right to seek judicial enforcement of the terms of this assurances document and nothing in this document alters or limits the Federal enforcement measures that the United States may take in order to address violations of this document or applicable Federal law.

**I hereby certify that I have read and understood the obligations described above, that Contractor is in compliance with the above-described nondiscrimination requirements, and by my signature on this document, acknowledge my understanding that any intentional or negligent misrepresentation or falsification of any information submitted in conjunction with this document could subject me to punishment under Federal, civil liability and/or in criminal penalties, including but not limited to fine or imprisonment or both under Title 18, United States Code, Sec. 1001, *et seq.* and punishment under Federal law.**

Louis J Gaudio  
Printed Name

Vice President  
Title

  
Signature

8/19/2022  
Date

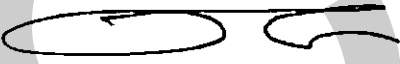
**CERTIFICATION REGARDING LOBBYING BY CONTRACTOR (OVER \$100,000)**

Pursuant to 40 CFR Part 20 (which is by this reference incorporated herein), the undersigned certifies, to the best of his or her knowledge and belief, that:

- A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned must complete and submit Standard Form-LLL *Disclosure Form to Report Lobbying*, in accordance with its instructions.
- C. The undersigned must require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subcontractors must certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification must be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, **QUALITY ENTERPRISES USA, INC.** certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801, *et seq.*, apply to this certification and disclosure, if any. Further, by signing below you acknowledge that knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. § 1001 (False Statements) and could subject you to fines, imprisonment, or both.

  
\_\_\_\_\_  
Signature of Contractor  
Louis J Gaudio  
\_\_\_\_\_  
Print Name  
Vice President  
\_\_\_\_\_  
Title

8/19/2022  
\_\_\_\_\_  
Date  
3494 Shearwater St  
\_\_\_\_\_  
Address  
Naples, Florida 34117  
\_\_\_\_\_  
City, State, ZIP

## DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352  
0348-0046

<b>1. Type of Federal Action:</b> a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	<b>2. Status of Federal Action:</b> a. bid/offer/application b. initial award c. post-award	<b>3. Report Type:</b> a. initial filing b. material change For Material Change Only:    year    quarter Date of last report: _____
<b>4. Name and Address of Reporting Entity:</b> Prime Subawardee Tier _____ <i>if known</i> : Congressional District, <i>if known</i> : 4c		<b>5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime:</b>  Congressional District, <i>if known</i> :
<b>6. Federal Department/Agency:</b>	<b>7. Federal Program Name/Description:</b> CFDA Number, <i>if applicable</i> :	
<b>8. Federal Action Number, <i>if known</i> :</b>	<b>9. Award Amount, <i>if known</i> :</b> \$	
<b>10. a. Name and Address of Lobbying Registrant</b> <i>(if individual, last name, first name, MI):</i>	<b>b. Individuals Performing Services</b> <i>(including address if different from No. 10A)</i> <i>(last name, first name, MI):</i>	
Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be available for public inspection. Any person who fails to file the required disclosure must be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.		Signature: _____ Print Name: _____ Title: _____ _____ Telephone No.: _____ Date: ____
<b>Federal Use Only:</b>		Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)

## **INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES**

This disclosure form must be completed by the reporting entity, whether subawardee or prime Federal Contractor, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing, or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward Contractor. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal Contractor. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."



9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, City, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.  
  
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official must sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

**COST CERTIFICATION**

I certify that:

1. I have authority on behalf of **QUALITY ENTERPRISES USA, INC.** ("Contractor") to accept proceeds from Marion County, Florida ("COUNTY") per the Contract by and between COUNTY and Contractor from COUNTY's allocation of the Coronavirus Local Fiscal Recovery Fund as created by the American Rescue Plan Act of 2021, Section 9901 ("ARPA") for eligible expenditures under this Master Agreement.
2. I understand COUNTY will rely on this certification as a material representation in processing reimbursements or payment requests.
3. I understand the Contractor receiving funds pursuant to this certification shall retain documentation of all uses of the funds, including but not limited to invoices and/or sales receipts in a manner consistent with §200.333 Retention requirements for records of 2 CFR 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance). Such documentation shall be produced to COUNTY upon request and may be subject to audit by the State Auditor.
4. **I understand any funds provided pursuant to this certification cannot be used for expenditures for which Contractor has received any other funding whether State, Federal or private in nature, for that same expense.**

I hereby certify that I have read the above certification, and that the information and my statements provided herein by me are true and correct to the best of my knowledge, and by my signature on this document, acknowledge my understanding that any intentional or negligent misrepresentation or falsification of any of the information in this document could subject me to punishment under Federal and/or civil liability and/or in criminal penalties, including but not limited to fine or imprisonment or both under Title 18, United States Code, Sec. 1001, *et seq.* and punishment under Federal law.

Louis J Gaudio  
Printed Name

Vice President  
Title

  
Signature

8/19/2022  
Date

**EXHIBIT "C"**  
**NON-COLLUSIVE AFFIDAVIT**

STATE OF FLORIDA  
COUNTY OF MARION

I state that I Louis J Gaudio (print individual's name) as Vice President (insert individual's title) of **QUALITY ENTERPRISES USA, INC.** ("CONTRACTOR") according to law and on my oath, and under penalty of perjury, deposes and says that:

1. I am authorized to make this affidavit on behalf of CONTRACTOR, its owner(s), director(s) and officer(s).
2. I am the person responsible for the price(s) and amount(s) reflected in CONTRACTOR's negotiations (the "Pricing"), and the preparation of the Pricing. I state that:
  - A. The Pricing is genuine and not collusive or a sham.
  - B. The price(s) and amount(s) of CONTRACTOR'S Pricing have been and will be arrived at independently and without collusion consultation, communication or agreement for the purpose of restricting competition, as to any matter relating to such process with any other bidder, potential bidder, or with any competitor;
  - C. Neither the price(s) nor the amount(s) of CONTRACTOR's Pricing, and neither the approximate price(s) nor approximate amount(s) of the Pricing, have been disclosed and will not knowingly be disclosed by CONTRACTOR, prior to notice of the intent to award.
  - D. No attempt has been made or will be made to induce any firm or persons to refrain from competing or submitting any document to compete for this Master Agreement or the Tasks thereunder, or to submit a price(s) higher than the prices in CONTRACTOR's Pricing, or to submit any intentionally high or noncompetitive price(s) or other form of complementary Pricing.
  - E. The Pricing of CONTRACTOR is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive Pricing.
  - F. CONTRACTOR, its affiliates, subsidiaries, officers, director, and employees are not currently under investigation, by any governmental agency and have not in the last ten (10) years been convicted or found liable for any act prohibited by State or Federal law in any jurisdiction, involving conspiracy or collusion with respect to a proposal, on any public contract, except as follows: \_\_\_\_\_ . (Insert "None," if none.)

The undersigned and CONTRACTOR understand and acknowledge that the above representations are material and important, and will be relied on by Marion County in awarding contracts for which CONTRACTOR's Pricing is or will be submitted.

The undersigned and CONTRACTOR understand that any misstatement in this affidavit is, and shall be treated as, fraudulent concealment of the true facts relating to the submission of responses for this Agreement.

STATE OF FLORIDA  
COUNTY OF ~~MARION~~ Collier

The foregoing Non-Collusive Affidavit was acknowledged before me by means of  physical presence or  online notarization, this 19<sup>th</sup> day of August, 2022, by Louis J. GAUDIN (name of person) as Vice President (title) for **QUALITY ENTERPRISES USA, INC.**, the party on behalf of whom this instrument was executed.

(SEAL)



Marcie Cohen  
Notary Public, State of Florida

Personally Known  
OR  
 Produced Identification

Type of Identification Produced: N/A - Known

**EXHIBIT "D"**  
**PUBLIC ENTITY CRIMES FORM**

Marion County Procurement Services Department  
Public Entities Crimes Affidavit

SWORN STATEMENT UNDER SECTION 287.133(3)(a), FLORIDA STATUTES (2022), ON PUBLIC ENTITY CRIMES THIS FORM MUST BE SIGNED IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICER AUTHORIZED TO ADMINISTER OATHS.

1. This sworn statement is submitted with a proposal to the Procurement Services Department.
2. This sworn statement submitted by **QUALITY ENTERPRISES USA, INC.** whose business address is 3494 Shearwater Street, Naples, Florida 34117 and its Federal Employer Identification Number is 54-0947002. If the entity has no FEIN, write the social security number of the individual signing this sworn statement.
3. My name is Louis J Gaudio and my relationship to the entity named above is Vice President.
4. I understand that a "public entity crime" as defined in Section 287.133(1)(g), Florida Statutes (2022), means a violation of any State or Federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other State or with the United States, including, but not limited to, any bid, proposal, reply, or contract for goods or services, any lease for real property, or any contract for the construction or repair of a public building or public work, involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.
5. I understand that "convicted" or "conviction" as defined in Section 287.133(1)(b), Florida Statutes (2022) means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any Federal or State trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.
6. I understand that an "affiliate" as defined in Section 287.133(1)(a), Florida Statutes (2022) means:
  - (a) A predecessor or successor of a person convicted of a public entity crime; or
  - (b) An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.
7. I understand that a "person" as defined in Section 287.133(1)(e), Florida Statutes (2022) means any natural person or any entity organized under the laws of any State or of the United

States with the legal power to enter into a binding contract and which bids or applies to bid on contracts let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.

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

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

The entity submitting this sworn statement, or one or more of the officers, directors, executives, partners, shareholders, employees, members or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime after July 1, 1989, AND (Indicate which additional statement below applies).

There has been a subsequent proceeding concerning the conviction before a Hearing Officer of the State of Florida, Division of Administrative Hearings and the Final Order entered by the Hearing Officer did not place the person or affiliate on the convicted vendor list. (Please attach a copy of the final order).

The person or affiliate was placed on the Convicted Vendor List. There has been a subsequent proceeding before a Hearing Officer of the State of Florida, Division of Administrative Hearings. The Final Order entered by the Hearing Officer determined that it was in the public interest to remove the person or affiliate from the Convicted Vendor List. (Please attach a copy of the final order).

The person or affiliate has not been placed on the Convicted Vendor List. (Please describe an action taken by or pending with the Department of General Services).

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[This portion of page intentionally left blank. Signature page for this Exhibit "D" follows.]

By signing below, I affirm my responsibility pursuant to Section 287.133(3)(b), Florida Statutes (2022), to report to Marion County and Florida's Department of Management Services within thirty (30) days after a conviction of a public crime applicable to a person or affiliate as defined above.

STATE OF FLORIDA  
COUNTY OF MARION

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, this 19<sup>th</sup> day of August, 2022, by Louis J. Gaudio (name of person) as Vice President (title) for **QUALITY ENTERPRISES USA, INC.**, the party on behalf of whom this instrument was executed.

(SEAL)



Marcie L. Cohen  
Notary Public, State of Florida

Personally Known  
OR  
 Produced Identification

Type of Identification Produced: N/A - KNOWN