

AGREEMENT BETWEEN COUNTY AND CONTRACTOR

This Agreement Between County and Contractor, (this "Agreement") made and entered into by and between Marion County, a political subdivision of the State of Florida, located at 601 SE 25th Ave, Ocala, FL 34471 (hereinafter referred to as "COUNTY") and **T&C Underground, Inc.**, located at 7450 SW 38th Ave., Ocala, FL 34476, possessing FEIN# 26-2890138 (hereinafter referred to as "CONTRACTOR") under seal for the Emergency and Scheduled Repairs of Utility Infrastructure, (hereinafter referred to as the "Project"), and COUNTY and CONTRACTOR hereby agreeing as follows:

WITNESSETH:

In consideration of the mutual covenants and promises contained herein, COUNTY and CONTRACTOR (singularly referred to as "Party," collectively "Parties") hereto agree as follows:

Section 1 – The Contract. The contract between COUNTY and CONTRACTOR, of which this Agreement is part, consists of the Contract Documents. This Agreement approved by the Board of County Commissioners on August 2, 2022 shall be effective on the last signature date set forth below.

Section 2 – The Contract Documents. The Contract Documents are defined as this Agreement, the Specifications, the Drawings, all Purchase Orders, Change Orders and Field Orders issued hereafter, any other amendments hereto executed by the Parties hereafter, together with the following (if any):

Marion County #22B-155 - Emergency and Scheduled Repairs of Utility Infrastructure, the Offer, Project Bid Scope and/or Specifications, Plans and Drawings, any/all Addenda as issued in support of this Bid, Recorded Bonds as required, Certificate of Insurance, and Notice to Proceed.

Should any conflict arise between the Contract Documents and the Agreement, the terms of the Agreement shall govern.

Section 3 – Entire Agreement. The Contract Documents form the agreement between Parties for the Project and the CONTRACTOR acknowledges receipt of a copy of each and every Contract Document. The Contract Documents represent the entire and integrated agreement between the Parties and supersede prior negotiations, representations or agreements, either written or oral. This Agreement may be amended or modified only in writing. The Contract Documents shall not be construed to create a contractual relationship of any kind between any persons or entities other than COUNTY and CONTRACTOR.

Section 4 – Term. This Agreement shall be effective on the last signature date set forth below and shall continue through July 31, 2025 (the "Term"). Three annual renewal options are available with mutual agreement. All work shall proceed in a timely manner without delays. TIME IS OF THE ESSENCE. All limitations of time set forth in the Contract Documents are of the essence of this Contractor. The Work may be presumed abandoned after ninety (90) calendar days if CONTRACTOR terminates the Work without just cause or without proper notification to COUNTY, including the reason for termination, or fails to perform Work without just cause for ninety (90) calendar days.

Section 5 – Scope of Services. CONTRACTOR shall complete all Work assigned, as described in the scope of services, for the Emergency and Scheduled Repairs of Utility Infrastructure, per the Contract Documents, Exhibit A – Scope of Work, Construction Standards, Exhibit B hereto, and within the Term.

Section 6 - Compensation. COUNTY shall make payment to CONTRACTOR under COUNTY's established procedure according to the schedule set forth in Construction Standards, Exhibit B, and the Fee Schedule, Exhibit C hereto (the "Agreement Price"). There shall be no provisions for pricing adjustments during the Term.

Section 7 – Use of Other Contracts. COUNTY reserves the right to utilize any COUNTY contract, State of Florida contract, city or county governmental agencies, school board, community college/state university system or cooperative bid agreement. COUNTY reserves the right to separately bid any single order or to purchase any item on this Agreement if it is in the best interest of COUNTY.

Section 8 – Assignment. CONTRACTOR may not subcontract all or any part of this Agreement without written approval by COUNTY.

Section 9 – Laws, Permits, and Regulations. Prior to the performance of any Work hereunder, CONTRACTOR shall obtain and pay for all licenses and permits, as required to perform the Work. CONTRACTOR shall at all times comply with all appropriate laws, regulations, and ordinances applicable to the services provided under this Agreement.

Section 10 – Amendments. This Agreement may only be amended by mutual written agreement of both Parties.

Section 11 – Books and Records. CONTRACTOR shall keep records of all transactions, including documentation accurately reflecting the time expended by CONTRACTOR and its personnel. COUNTY shall have a right to request records from CONTRACTOR, and for those records to be made available within a reasonable timeframe depending on method of acquisition.

Section 12 – Public Records Compliance

A. IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT COUNTY'S 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

B. CONTRACTOR shall comply with public records laws, specifically:

- Keep and maintain public records required by COUNTY to perform the Work;
- Upon request from COUNTY's custodian of public 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;
- Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Term and following completion of this Agreement if CONTRACTOR does not transfer the records to COUNTY; and,
- Upon completion of this 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 Work. If CONTRACTOR transfers all public records to COUNTY upon completion of this 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 the completion of this 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.

C. If CONTRACTOR fails to provide the public records to COUNTY within a reasonable time, CONTRACTOR may be subject to penalties under Section 119.10 Florida Statutes and may be subject to unilateral cancellation of this Agreement by COUNTY.

Section 13 – Indemnification. 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 the 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 the Agreement. This Section 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.

Section 14 – Insurance. As applicable, during the period of Work, 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. FIRM shall provide, within the timeframe noted in the Award Letter, 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-. Self-Insured companies that cannot be rated, will also be considered. All policies must include

all requirements listed below, reference the project number and show Marion County as additional insured. The Certificate should also provide for 30-day cancellation notice to the Procurement Director's address, set forth herein.

WORKERS COMPENSATION AND EMPLOYER'S LIABILITY

Coverage to apply for all employees at STATUTORY Limits in compliance with applicable state and federal laws.

- Employer's Liability limits for not less than \$100,000 each accident \$500,000 disease policy limit and \$100,000 disease each employee must be included.
- The Contractor/Vendor, and its insurance carrier, waives all subrogation rights against Marion County, a political subdivision of the State of Florida, its officials, employees and volunteers for all losses or damages which occur during the contract and for any events occurring during the contract period, whether the suit is brought during the contract period or not.
- The County requires all policies to be endorsed with WC00 03 13 Waiver of our Right to Recover from others or equivalent.

COMMERCIAL GENERAL LIABILITY

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

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

BUSINESS AUTOMOBILE LIABILITY

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

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

Section 15 – Independent Contractor. In the performance of this Agreement, CONTRACTOR will be acting in the capacity of an "Independent Contractor" and not as an agent, employee, partner, joint venture, or associate of COUNTY. CONTRACTOR shall be solely responsible for the means, methods, techniques, sequences, and procedures utilized by CONTRACTOR in the full performance of this Agreement.

Section 16 – Default/Termination. In the event CONTRACTOR fails to comply with any of the provisions of this Agreement, COUNTY may terminate this Agreement for cause by first notifying CONTRACTOR in writing, specifying the nature of the default and providing CONTRACTOR with a reasonable period of time in which to rectify such default. In the event the default is not cured within the time period given, COUNTY thereafter may terminate this Agreement for cause upon written notice to CONTRACTOR without prejudice to COUNTY. In the event of termination of this Agreement for cause, COUNTY will then be responsible to compensate CONTRACTOR only for those services timely and satisfactorily performed pursuant to this Agreement up to the date of termination. COUNTY may terminate this Agreement without cause providing at least thirty (30) days written notice to CONTRACTOR. In the event of termination of this Agreement without cause, COUNTY will compensate CONTRACTOR for all services timely and satisfactorily performed pursuant to this Agreement up to and including the date of termination. Notwithstanding any other provision of this Agreement, this Agreement may be terminated if for any reason there are not sufficient appropriated and available monies for the purpose of maintaining COUNTY's or other public entity's obligations under this Agreement. Should this occur, COUNTY shall have no further obligation to CONTRACTOR other than to pay for services rendered prior to termination.

Section 17 – Damage to Property. CONTRACTOR shall be responsible for all material, equipment and supplies sold and delivered to COUNTY under this Agreement and until final inspection of the Work and acceptance thereof by COUNTY. In the event any such material, equipment and supplies are lost, stolen, damaged or destroyed, or COUNTY property, buildings, or equipment is damaged during delivery or unloading, or in the course of the WORK prior to final inspection and acceptance, CONTRACTOR shall replace the same or be returned to original state without additional cost to COUNTY, as applicable.

Section 18 – Governing Law, Law, Venue, Waiver of Jury Trial, and Attorney's Fees. This Agreement and all the Contract Documents shall be construed according to the laws of Florida and shall not be construed more strictly against one party than against the other because it may have been drafted by one of the parties. In the event of any legal proceeding arising from or related to this Agreement; (1) venue for state or federal legal proceedings shall be in Marion County, Florida (2) for civil proceedings, the parties consent to trial by the court and waive right to jury trial, (3) the prevailing party shall be entitled to recover all of its costs, including attorney's fees.

Section 19 – Termination for Loss of Funding/Cancellation for Unappropriated Funds. The obligation of COUNTY for payment to a CONTRACTOR is limited to the availability of funds appropriated in a current fiscal period, and continuation of this Agreement into a subsequent fiscal period is subject to appropriation of funds, unless otherwise authorized by law.

Section 20 – E-Verify, pursuant to Section 448.095, F.S.

Section 448.095, Florida Statutes, 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 the 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 the Agreement.

1. 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.
2. CONTRACTOR has agreed to perform in accordance with the requirements of this Section and agrees:
 - a) CONTRACTOR certifies and assures COUNTY that CONTRACTOR is currently in full compliance with Section 448.095, Florida Statutes and it is registered and uses the E-Verify System to verify work authorization status of all newly hired employees and will continue to do so throughout the Term. This certification and assurance is a material term on which COUNTY relies in entering into the Agreement.
 - b) COUNTY shall immediately terminate the Agreement if COUNTY has a good faith belief that CONTRACTOR has knowingly violated Section 448.09(1), Florida Statutes, 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.
 - c) 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.
 - d) CONTRACTOR shall maintain a copy of such affidavit for the duration of the Agreement and provide it to COUNTY upon request.
 - e) 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, as set forth above.
 - f) If COUNTY has a good faith belief that CONTRACTOR's Contracting Party has knowingly violated Section 448.09(1), Florida Statutes, 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.
 - g) If COUNTY terminates the Agreement with CONTRACTOR, CONTRACTOR may not be awarded a public contract for a least one (1) year after the date of termination.
 - h) CONTRACTOR is liable for any additional costs incurred by COUNTY as a result of a termination under this Section.
 - i) Any such termination under this Section is not a breach of the Agreement and may not be considered as such.
 - j) 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.
 - k) To comply with the terms of this Employment Eligibility Verification provision is made an express condition of the Agreement and COUNTY may treat a failure to comply as a material breach of the Agreement.

Section 21 – Force Majeure. Neither CONTRACTOR nor COUNTY shall be considered to be in default in the performance of its obligations under this Agreement, except obligations to make payments with respect to amounts already accrued, to the extent that performance of any such obligations is prevented or delayed by any cause, existing or future, which is beyond the reasonable control and not a result of the fault or negligence of, the affected Party (a "Force Majeure Event"). If a Party is prevented or delayed in the performance of any such obligations by a Force Majeure Event, such Party shall immediately provide notice to the other Party of the circumstances preventing or delaying performance and the expected duration thereof. Such notice shall be confirmed in writing as soon as reasonably possible. The Party so affected by a Force Majeure Event shall endeavor, to the extent reasonable, to

remove the obstacles which prevent performance and shall resume performance of its obligations as soon as reasonably practicable. A Force Majeure Event shall include, but not be limited to acts of civil or military authority (including courts or regulatory agencies), acts of God, war, riot, or insurrection, inability to obtain required permits or licenses, hurricanes and severe floods.

Section 22 – Counterparts. Original signatures transmitted and received via facsimile or other electronic transmission of a scanned document, (e.g., PDF or similar format) are true and valid signatures for all purposes hereunder and shall bind the Parties to the same extent as that of an original signature. Any such facsimile or electronic mail transmission shall constitute the final agreement of the Parties and conclusive proof of such agreement. Any such electronic counterpart shall be of sufficient quality to be legible either electronically or when printed as hardcopy. COUNTY shall determine legibility and acceptability for public record purposes. This Agreement may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original and all of which shall constitute the same instrument.

Section 23 - Scrutinized Companies, pursuant to Section 287.135, F.S.

A. Certification.

1. If this Agreement is for One Million Dollars or more, CONTRACTOR certifies that at the time it submitted its bid or proposal for this Agreement or before entering into this Agreement or renewing same, CONTRACTOR was not then and is not now:
 - a. 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, F.S., or
 - b. Engaged in business operations in Cuba or Syria.
2. If this Agreement is for any amount, CONTRACTOR certifies that at the time it submitted its bid or proposal for this Agreement or before entering into this Agreement or renewing same, CONTRACTOR was not then and is not now:
 - a. On the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, F.S. or
 - b. Engaged in a boycott of Israel.

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

1. 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:
 - a. Submitted a false certification as provided under Section 287.135(5), F.S., or
 - b. 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, F.S.
2. 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:
 - a. Submitted a false certification as provided under Section 287.135(5), F.S.;
 - b. 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, F.S.; or
 - c. Been engaged in business operations in Cuba or Syria.
3. 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:
 - a. Submitted a false certification as provided under Section 287.135(5), F.S.;
 - b. 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, F.S.;
 - c. Been engaged in business operations in Cuba or Syria; or
 - d. Been placed on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, F.S. or is engaged in a boycott of Israel.
4. Was entered into or renewed on or after July 1, 2018, and CONTRACTOR is found to meet any of the following prohibitions:
 - a. Submitted a false certification as provided under Section 287.135(5), F.S.;
 - b. 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, F.S.; or
 - c. Been engaged in business operations in Cuba or Syria.

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

1. Was entered into or renewed on or after July 1, 2018, and

2. CONTRACTOR is found to have been placed on the Scrutinized Companies that Boycott Israel List, created pursuant to Section 215.4725, F.S. or is engaged in a boycott of Israel.
- D. **Comply; Inoperative.** The Parties agree to comply with Section 287.135, F.S., as it may change from time to time during the Term. The contracting prohibitions in this Section become inoperative on the date that Federal law ceases to authorize the State of Florida to adopt and enforce such contracting prohibitions.

Section 24 – Sovereign Immunity. Nothing in the Agreement shall be deemed to waive the sovereign immunity protections provided COUNTY pursuant to Florida law. Notwithstanding anything stated to the contrary in the Agreement, any obligation of COUNTY to indemnify CONTRACTOR, if provided, is limited and shall not exceed the limits set forth in Section 768.28, Florida Statutes. This Section shall survive the termination of the Agreement.

Section 25 – On-Going Compliance. The Parties acknowledge that the 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 the Agreement is intended to reflect and require the Parties' compliance with all laws at all times. The Parties expressly and specifically agree to perform the Agreement in full compliance with the governing laws, statutes, and regulations, as same may change from time to time.

Section 26 – CONTRACTOR Conduct: These Guidelines govern CONTRACTOR while doing work on COUNTY property, as well as its employees, agents, consultants, and others on COUNTY property in connection with CONTRACTOR's work or at CONTRACTOR's express or implied invitation.

- **Courtesy and Respect:** COUNTY is a diverse government institution and it is critical that CONTRACTOR and its employees conduct themselves in a manner that is lawful, courteous, businesslike, and respectful of all staff, guests, or visitors.
- **Language and Behavior:** CONTRACTOR and its employees cannot engage in behavior that is rude, threatening, or offensive. Use of profane or insulting language is prohibited. Harassment of any type, including sexual harassment is strictly prohibited. Abusive, derogatory, obscene or improper language, gestures, remarks, whistling, cat calls or other disrespectful behavior cannot be tolerated. Roughhousing, fighting, fisticuffs, physical threats, destruction of property, vandalism, littering, or physical abuse of anyone on COUNTY property is not permitted under any circumstance.
- **No Weapons, Alcohol, or Drugs:** The use, possession, distribution, or sale of any weapon, alcohol, illegal drug, or controlled dangerous substance by CONTRACTOR or its employees is prohibited. Offenders will be removed from COUNTY property and/or reported to law enforcement.
- **Smoking:** CONTRACTOR and its employees are not permitted to smoke in or near any COUNTY buildings.
- **Fraternization:** CONTRACTOR and its employees may not fraternize or socialize with COUNTY staff.
- **Appearance:** CONTRACTOR and its employees are required to wear appropriate work wear, hard hats and safety footwear, as the case may be, while on the job. Articles of clothing must be neat and tidy in appearance, and cannot display offensive or inappropriate language, symbols or graphics. COUNTY has the right to decide if such clothing is inappropriate.
- **Reporting:** CONTRACTOR is required to report any matter involving a violation of these rules or any matter involving health or safety, including any altercations, to COUNTY's Procurement Services immediately.

CONTRACTOR is responsible for its employees, agents, consultants and guests. If prohibited conduct does occur, CONTRACTOR will take all necessary steps to stop and prevent any future occurrence. Any breach of these conditions will result in the removal of the person responsible from COUNTY property and prohibited actions could result in the immediate termination of any or all of CONTRACTOR's contracts with COUNTY.

Section 27 – Authority to Obligate. Each person signing this Agreement on behalf of either Party individually warrants that he or she has full legal power to execute this Agreement on behalf of the Party for whom he or she is signing, and bind and obligate such Party with respect to all provisions contained in this Agreement.

Section 28 – Notices. 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 recipient. All 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:

CONTRACTOR: T&C Underground, Inc.
7450 SW 38th Ave., Ocala, FL 34476
CONTACT PERSON: Thomas Sizemore | 352-867-1060

COUNTY: Marion County Utilities
c/o Marion County, a political subdivision of the State of Florida
601 SE 25th Ave, Ocala, FL 34471

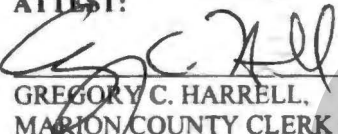
A copy of all notices to COUNTY hereunder shall also be sent to:

Procurement Services Director
Marion County Procurement Services Department
2631 SE 3rd St., Ocala, FL 34471

Alternatively, the parties may elect to receive said notices 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: thmsizemore@aol.com and csizemoretcu@outlook.com. Designation signifies CONTRACTOR's election to accept notices solely by e-mail.

IN WITNESS WHEREOF the Parties have entered into this Agreement, as approved by the Marion County Board of County Commissioners, on the date of the last signature below.

ATTEST:


8/2/2022
GREGORY C. HARRELL, DATE
MARION COUNTY CLERK OF COURT

MARION COUNTY, A POLITICAL SUB-
DIVISION OF THE STATE OF FLORIDA

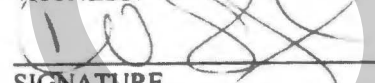

8/2/2022
CARL ZALAK III, DATE
CHAIRMAN

FOR USE AND RELIANCE OF MARION
COUNTY ONLY, APPROVED AS TO FORM
Utility Infrastructure


BCC APPROVED: August 2, 2022
22B-155 | Emergency and Scheduled Repairs of


8/12/2022
FOR: MATTHEW G. MINTER, DATE
MARION COUNTY ATTORNEY

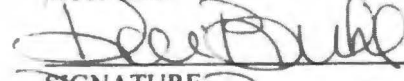
WITNESS:


SIGNATURE
Thomas Sizemore
PRINTED NAME

T&C UNDERGROUND, INC.


8/9/22
BY: DATE
Thomas Sizemore
PRINTED:
President
ITS: (TITLE)

WITNESS:


SIGNATURE
Robert Buhl
PRINTED NAME

SCOPE OF WORK EXHIBIT A

1. SCOPE OF SERVICE

1.1. DESCRIPTION

- 1.1.1. Marion County is soliciting fully licensed and qualified firms to submit proposals for an **Emergency and Scheduled (Non-Emergency) Repairs of Utility Infrastructure** contract. All project(s) assigned under this contract will be located throughout Marion County, Florida. The intent of this contract is to enable the County to utilize the assistance of the contractor for projects that the County is not capable of completing due to manpower, workload, or equipment restraints. Each repair project will vary in size, length, complexity, and location. The quantities utilized within the Fee Schedule are an estimate and not guaranteed as a minimum or maximum for this project.
- 1.1.2. The contract shall be for the period of three (3) years with the option to renew for three (3) additional one (1) year terms pending mutual agreement.
- 1.1.3. Services provided by the Contractor may consist of, but not be limited to, the labor and materials necessary to repair, replace, relocate and maintain potable water mains, wastewater gravity mains, wastewater force mains, reclaimed water mains; performance of ancillary services such as excavating trenches and disposing of surplus trench material, providing suitable backfill material, site restoration, and force main cleaning.
- 1.1.4. County representatives for each project will be identified at the time of commencement.
- 1.1.5. For projects that utilize this contract, plans, specifications, FDOT Right-of-Way, and/or FDEP permitting will be provided to the Contractor by the County. Any other permits required for an individual project will be obtained by the Contractor.
- 1.1.6. Successful bidders must be licensed for this type of work and must submit a copy of such license upon award. All local codes and State of Florida ADA Code will apply. All work must be done by experienced trades.

1.2. CONTRACTOR RESPONSIBILITIES

- 1.2.1. Every Contractor crew must have at least one (1) employee on site that can effectively communicate in English with the County staff or with the general public.
- 1.2.2. Contractor will coordinate work so that there is minimal to no interruption to daily work at any location.
- 1.2.3. Contractor is responsible for any damage to County or personal property due to negligence on the part of the Contractor, their employees, or subcontractors. Restoration shall be made to the County's satisfaction.
- 1.2.4. Contractor is required to participate in performance and project report meetings as deemed necessary by the County.

1.3. REQUIREMENTS

- 1.3.1. The Contractor shall furnish labor and materials in full accordance with all applicable rules and regulations using Federal, State, and County Standards as guidelines:
 - 1.3.1.1. State and Federal laws
 - 1.3.1.2. Rules and regulations pertaining to wastewater and reclaimed water spill prevention, containment and mitigation.

- 1.3.1.3. FDEP rules and regulation.
- 1.3.1.4. Marion County Land Development Code (MCLDC)
- 1.3.1.5. Florida Department of Transportation (FDOT) Standard Specifications for Road and Bridge Construction (current edition)
- 1.3.1.6. National Pollutant Discharge Elimination System (NPDES, 40 CFR part 122)
- 1.3.1.7. Underground Facility Damage Prevention and Safety Act (UFDPSA, F.S. Ch. 556)
- 1.3.1.8. American Water Works Association (AWWA)
- 1.3.1.9. Florida Building Codes
- 1.3.2. Maintenance of Traffic (MOT) according to Florida Department of Transportation (FDOT) Roadway and Traffic Design Standards shall be followed when working within State and County rights-of-way and/or the ability to obtain required permits when closing roads during repair activities.
- 1.3.3. Proper siltation control, dewatering, sheeting, shoring, bedding and backfilling of all excavation as required by Marion County Utilities (MCU).
- 1.3.4. Pumps and/or tanker trucks to provide bypass wastewater flow in order to prevent customer service outages during the course of work activities.
- 1.3.5. Proper compaction of all excavations under public roadways as required by the Marion County Land Development Code (MCLDC) and the ability to provide compaction and documented density testing according to the requirements of the FDOT for all excavations under State and County-owned roadways, from a certified testing company.
- 1.3.6. Proper concrete, road base and asphalt restoration for sidewalks, curbs, drives, parking areas and County-owned roadways as required by the MCLDC.
- 1.3.7. Restoration services for turf and landscaping removed or damaged by construction activities.
- 1.3.8. Contractor's operations shall not interrupt the daily operations of any County site. Work vehicles will be operated safely while on County property and follow all FDOT and OSHA safety standard rules as applicable
- 1.3.9. Contractor shall be responsible for the investigation of the site conditions before beginning work at each project.
- 1.3.10. Contractor shall assure conditions on the work site reflect good housekeeping and safety practices at all times. The Contractor shall be responsible for all trash and debris disposal from the work site.

1.4. ASSIGNMENT OF WORK

- 1.4.1. Project requests shall be dispatched by the County by means of a telephone call or email, and a project number will be issued. This project number must be referenced on all correspondence, including invoicing. Once Contractor receives the project number, the Contractor shall submit to the County a cost estimate and schedule to be approved by the County for the scope of work required by the project. The cost for the work shall be based upon the contracted unit prices and markup for subcontractor services and materials.

1.5. SUBMITTALS

- 1.5.1. Prior to ordering the materials, Contractor shall submit to the County representative the manufacturer's most current catalogue sheets and performance specifications for the PVC Pipe, valves, air release valves and assemblies, fittings, restraints, and any other associated appurtenances proposed for use on any project. Any material requiring a submittal that is acquired or installed by the Contractor prior to receiving the County's approval of that material is at the Contractor's own risk.

- 1.5.2. Contractor shall provide a minimum of one (1) submittal for review by the County. Submittals can be electronic .pdf format. The County will review and respond to each submittal.

1.6. RESPONSE TIME

- 1.6.1. Emergency Repairs – Emergency Repairs include any work related to repairs that are deemed by the County as an Emergency. Contractor shall verbally respond to each request for Emergency service within fifteen (15) minutes of notification and shall have a qualified person on site within one (1) hour of the initial notification and work started within two (2) hours of notification.
- 1.6.2. Scheduled (Non-Emergency) Repairs - Non-Emergency Repairs include any work related to repairs that are not deemed by the County as an Emergency. Contractor shall verbally respond to each request within 24 hours of notification and provide a written estimate of the project within three to five business days. Once the cost estimate and work schedule is approved by the County, the Contractor shall be issued a task order and purchase order (PO) by e-mail. The Contractor shall immediately notify the County representative or designee prior to any deviations to the estimate and/or scope. Upon completion of the work at a project location, the Contractor shall notify the County immediately that all required work for the project has been completed and is ready for final inspection. Each individual project shall be considered complete upon final acceptance by the County.
- 1.6.3. Failure to meet the required response times will be considered a breach of contract and may result in termination of the contract.

1.7. COST ESTIMATE AND WORK SCHEDULE

- 1.7.1. The written cost estimate for each project shall follow the Fee Schedule format as exemplified below:
- Project Number
 - Project Description
 - Itemized Quantities
 - Itemized Amounts (per Fee Schedule)
 - Total Amount
- 1.7.2. The work schedule shall provide an estimated start date, and the estimated number of days the project will take to complete.

1.8. HOURS OF WORK / INVOICING

- 1.8.1. Regular work hours are hereby defined as 7:30 AM to 4:30 PM, Monday through Friday. Regular work hours do not include Saturday, Sunday, or other Marion County Holidays.
- 1.8.2. Contractor's invoices shall include an invoice summation page by Fee Schedule line item with the daily documentation by Fee Schedule line item to support the total invoice summation page.
- Project Number
 - Project Description
 - Itemized Quantities
 - Itemized Amounts (per Fee Schedule)
 - Total Amount
- 1.8.3. Contractor's invoices for subcontracted services shall include a copy of the subcontractor's invoice to the Contractor and show the percent markup, as listed on the Fee Schedule.
- 1.8.4. Contractor's invoices for parts and equipment shall include documentation clearly showing the total cost paid by the Contractor for the parts/materials and show the percent markup, as listed on the Fee Schedule.

1.9. WARRANTY

- 1.9.1. All materials and workmanship provided by the Contractor shall be fully warranted for a period of not less than one (1) year from final completion except when the standard manufacturer warranty is greater than one year.

1.10. PERMITS

- 1.10.1. The Contractor shall be reimbursed for the cost of the permit fee only. No percent markup shall be paid to the Contractor for permit fees. Contractor's invoices for permits must include supporting documentation, clearly showing the cost paid by the Contractor for the permit.

1.11. LABOR

- 1.11.1. Work provided during normal business hours shall be paid at the unit price provided on the Fee Schedule. Work provided after hours and on holidays will be reimbursed at one and one half (1 1/2) times the hourly labor rate submitted by the Contractor and shall be billed according to actual time worked. Work provided after hours and on holidays may only be performed with prior written approval of the County.
- 1.11.2. Any work deemed as Emergency by the County shall be paid a mark-up percentage over the labor rates according to the Fee Schedule.

1.12. MAINTENANCE OF TRAFFIC

- 1.12.1. The Contractor or their subcontractor is responsible for holding and maintaining an Intermediate Maintenance of Traffic (MOT) Certificate and will be responsible for maintaining proper maintenance of traffic throughout the completion of a project. All MOT must comply with FDOT's Design Standards, Index 600.
- 1.12.2. MOT costs shall be reimbursed to the Contractor at cost. Contractor's invoices for MOT must include supporting documentation, clearly showing the cost paid by the Contractor. This item shall only be performed with written approval of the County.

1.13. EQUIPMENT

- 1.13.1. All trip charges, mileage, vehicle charges, and travel time are to be included in the hourly rate on the Fee Schedule. Only time on the job site may be charged.
- 1.13.2. Equipment sitting idle on the job site shall not be considered billable. Only equipment actively participating in the work and/or restoration efforts shall be considered for billing purposes per the Fee Schedule.

1.14. SUBCONTRACTORS

- 1.14.1. The use of subcontractors for any work must be pre-approved by the County's representative.
- 1.14.2. Payment for subcontracted services and additional mark-up will be paid based on the Contract's Fee Schedule.
- 1.14.3. A copy of the subcontractor's invoice shall have the project location notated to the Contractor and must be submitted with the Contractor's invoice.
- 1.14.4. A copy of any subcontractor reports shall have the project location notated to the Contractor and must be submitted with the Contractor's invoice, such as soil density test reports.

1.15. MATERIALS

- 1.15.1. All materials shall be in accordance with Marion County Land Development Code. The Contractor shall charge their cost for materials plus the materials markup as listed on the Fee Schedule. The Contractor's invoices must include supply house backup documentation that clearly shows the project location, manufacturer's part number, description, supply house cost and percent markup cost. The Contractor will submit with their invoice to the County, all invoices from suppliers and other trade partners and a copy of the cancelled check/credit card receipt for the purpose of verifying materials associated with the costs.
- 1.15.2. The County reserves the right to sample and test any material after delivery and to reject all items that fails to comply with specified requirements. All tubing, pipes, fittings, valves and other ancillary materials shall be subject to inspection and approval by the County after delivery. No broken, cracked, imperfectly coated, or otherwise damaged or unsatisfactory material shall be used. When any defect is discovered, the defective portion shall not be installed but rather removed from the site immediately. Defective tubing shall have the defect cut off at least twelve inches (12") from the defect in the non-defective section of the barrel.

1.16. STANDARD AND SAFETY EQUIPMENT

- 1.16.1. At his expense, Contractor shall comply with all applicable OSHA, ADA, and FDOT regulations.

1.17. TAXES AND FEES

- 1.17.1. The Contractor shall pay all applicable sales, consumer, use and other similar taxes required by law. The Contractor is responsible for reviewing the pertinent State statutes involving the sales tax and complying with all requirements.

EXHIBIT B CONSTRUCTION STANDARDS

SECTION 1 THE WORK

A. PERFORM ALL WORK.

CONTRACTOR shall perform all Work required, implied or reasonably inferable from, this Agreement.

B. "WORK" DEFINED.

The term "Work" shall generally mean whatever is done by or required of CONTRACTOR to perform and complete its duties under this Agreement, including the following: construction of the whole or a designated part of the Project; acquiring, recording, and furnishing of any required surety bonds and insurance; and the provision or furnishing of labor, supervision, services, materials, supplies, equipment, fixtures, appliances, facilities, tools, transportation, storage, power, permits and licenses required of CONTRACTOR, fuel, heat, light, cooling and all other utilities as required by this Agreement. Work to be performed by CONTRACTOR is generally described as being according to the plans and specifications furnished by COUNTY.

SECTION 2 RETAINAGE

A. STATUTE GOVERNS.

Retainage amounts for construction services shall be in accordance with §218.735, F.S.

B. AMOUNT REQUIRED.

For contracts in excess of Two Hundred Thousand Dollars (\$200,000), COUNTY may retain from each progress payment made to CONTRACTOR an amount not exceeding five (5%) percent of the payment as retainage.

C. DOES NOT APPLY IN LIMITED CIRCUMSTANCES.

This retainage does not apply to construction services paid for, in whole or in part, with Federal funds and are subject to Federal grantor laws and regulations or requirements that are contrary to any provision of the Local Government Prompt Payment Act, Sections 218.70-218.80, F.S.

D. WITHHELD UNTIL FINAL COMPLETION.

Retainage shall be withheld until the Project has reached final completion and is accepted by COUNTY. Final completion is defined as having all Work completed, all punch list items corrected, and final inspection completed and accepted by COUNTY. Upon final completion, CONTRACTOR shall submit the final payment application requesting release of retainage along with Waivers of Right to Claim Against the Payment Bond (Final Payment) from all subcontractors, as defined in F.S. 713.01, who performed Work on the Project. Retainage shall not be fully released until all Waivers of Right to Claim Against the Payment Bond (Final Payment) have been submitted to COUNTY.

SECTION 3 PAYMENT OF THE AGREEMENT PRICE

A. PROGRESS PAYMENTS.

COUNTY shall pay the Agreement Price by making progress payments to CONTRACTOR as provided below.

B. PAYMENT PROCEDURE.

PROGRESS PAYMENTS – Based upon CONTRACTOR's Application for Payment submitted to the Architect and/or Engineer and upon Certificates for Payment subsequently issued to COUNTY by the Architect and/or Engineer, COUNTY shall make progress payments to CONTRACTOR on account of the Agreement Price.

C. **APPLICATION FOR PAYMENT.**

On or before the 25th day of each month after commencement of the Work, CONTRACTOR shall submit an Application for Payment for the period ending the last working day of the month to the Architect and/or Engineer in such form and manner, and with such supporting data and content, as COUNTY or the Architect and/or Engineer may require. Therein, CONTRACTOR may request payment for that portion of the Agreement Price properly allocable to Agreement requirements properly provided, labor, materials and equipment properly incorporated in the Work plus that portion of the Agreement Price properly allocable to materials or equipment properly stored on-site (or elsewhere if approved in advance in writing by COUNTY) for subsequent incorporation in the Work, less the total amount of previous payments received from COUNTY.

1) **CONTRACTOR'S REPRESENTATION.**

Payment for stored materials and equipment shall be conditioned upon CONTRACTOR's proof satisfactory to COUNTY, that COUNTY has title to such materials and equipment and shall include proof of required insurance. Such Application for Payment shall be signed by CONTRACTOR and shall constitute CONTRACTOR's representation that the Work has progressed to the level for which payment is requested in accordance with this Agreement, that the Work has been properly installed or performed in full accordance with this Agreement, and that CONTRACTOR knows of no reason why payment should not be made as requested, thereafter, the Architect and/or Engineer will review the Application for Payment and may also review the Work at the Project site or elsewhere to determine whether the quantity and quality of the Work is as represented in the Application for Payment and is as required by this Agreement.

2) **PAYMENT.**

COUNTY shall make progress payments on account of the Agreement Price to CONTRACTOR in accordance with The Local Government Prompt Payment Act, §§218.70-218.80, F.S. following the Architect's and/or Engineer's receipt of each Application for Payment. The amount of each progress payment shall be the amount certified for payment by the Architect and/or Engineer less such amounts, if any, otherwise owing by CONTRACTOR to COUNTY or which COUNTY shall have the right to withhold as authorized by this Agreement. The Architect's and/or Engineer's certification of CONTRACTOR's Application for Payment shall not preclude COUNTY from the exercise of any of its rights as set forth in this Agreement.

D. **WARRANTS TITLE.**

CONTRACTOR warrants that title to all Work covered by an Application for Payment will pass to COUNTY no later than the time of payment. CONTRACTOR further warrants that upon submittal of an Application for Payment, all Work for which payments have been received from COUNTY shall be free and clear of liens, claims, security interest or other encumbrances in favor of CONTRACTOR or any other person or entity whatsoever.

E. **PAY SUBCONTRACTOR.**

CONTRACTOR shall promptly pay each subcontractor on account of such subcontractor's work, the amount to which such subcontractor is entitled. In the event COUNTY becomes informed that CONTRACTOR has not paid a subcontractor as herein provided, COUNTY shall have the right, but not the duty, to issue future checks in payment to CONTRACTOR of amounts otherwise due hereunder naming CONTRACTOR and such subcontractor as joint payees. Such joint check procedure, if employed by COUNTY, shall create no rights in favor of any person or entity beyond the right of the named payees to payment of the check and shall not be deemed to commit COUNTY to repeat the procedure in the future.

F. **NOT ACCEPTANCE OF WORK.**

No progress payment, nor any use or occupancy of the Project by COUNTY, shall be interpreted to constitute an acceptance of any Work not in strict accordance with this Agreement.

G. **WITHHELD PAYMENT.**

- 1) COUNTY may decline to make payment, may withhold funds, and, if necessary, may demand the return of some or all of the amounts previously paid to CONTRACTOR, to protect COUNTY from loss because of:
 - (a.) Defective Work not remedied by CONTRACTOR nor, in the opinion of COUNTY, likely to be remedied by CONTRACTOR;

- (b.) Claims of third parties against COUNTY or COUNTY's property or reasonable evidence indicating probable filing of such claims;
 - (c.) Failure by CONTRACTOR to pay subcontractors or others in a prompt and proper fashion;
 - (d.) Evidence that the Work cannot be completed in accordance with this Agreement for the unpaid balance of the Agreement Price;
 - (e.) Evidence that the Work will not be completed in the time required for Substantial Completion or Final Completion;
 - (f.) Persistent failure to carry out the Work in accordance with the Contract Documents; or
 - (g.) Damage to COUNTY or a third party to whom COUNTY is, or may be, liable.
- 2) In the event that COUNTY makes written demand upon CONTRACTOR for amounts previously paid by COUNTY, CONTRACTOR shall promptly comply with such demand.

H. **UNEXCUSED FAILURE TO PAY.**

If within ten (10) days after the date established herein for COUNTY's payment to CONTRACTOR, without cause or basis hereunder, fails to pay CONTRACTOR any amount then due and payable to CONTRACTOR, then CONTRACTOR may after seven (7) additional days written notice to COUNTY and the Architect and/or Engineer, and without prejudice to any other available rights or remedies it may have, stop the Work until payment of those amounts due from COUNTY have been received. Any payment not made within ten (10) days after the date due shall bear interest at the rate of one and a half percent (1.5%) per annum.

SECTION 4
COUNTY

A. **WRITTEN AND TANGIBLE MATERIAL.**

COUNTY shall furnish to CONTRACTOR, at the time of executing this Agreement, any and all written and tangible material in its possession concerning conditions below ground at the site of the Project. Such written and tangible material is furnished to CONTRACTOR only in order to make complete disclosure of such material and for no other purpose. By furnishing such material, COUNTY does not represent, warrant, or guarantee its accuracy either in whole, in part, implicitly or explicitly, or at all, and shall have no liability therefore. COUNTY shall also furnish surveys, legal limitations and utility locations (if known), and a legal description of the Project site.

B. **APPROVALS; EASEMENTS.**

Excluding permits and fees normally the responsibility of CONTRACTOR, COUNTY shall obtain all approvals, easements, and the like required for construction and shall pay for necessary assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

C. **COPIES OF CONTRACT DOCUMENTS.**

COUNTY shall furnish CONTRACTOR, free of charge, four (4) copies of the Contract Documents for execution of the Work. CONTRACTOR will be charged, and shall pay COUNTY, all actual costs for each additional set of the Contract Documents which it may require.

D. **RIGHT TO STOP WORK.**

If CONTRACTOR persistently fails or refuses to perform the Work in accordance with this Agreement, COUNTY may order CONTRACTOR to stop the Work, or any described portion thereof, until the cause for stoppage has been corrected, no longer exists, or COUNTY orders that Work be resumed. In such event, CONTRACTOR shall immediately obey such order.

E. **COUNTY'S RIGHT TO PERFORM WORK.**

If CONTRACTOR's Work is stopped by COUNTY and CONTRACTOR fails within seven (7) days of such stoppage to provide adequate assurance to COUNTY that the cause of such stoppage will be eliminated or corrected, then COUNTY may, without prejudice to any other rights or remedies COUNTY may have against CONTRACTOR, proceed to carry out the subject Work. In such a situation, an appropriate Change Order, defined herein, shall be issued deducting from the Agreement Price the cost of correcting the subject deficiencies, plus compensation for the Architect's and/or Engineer's additional services and expenses necessitated thereby, if any. If the unpaid portion of the Agreement Price is insufficient to cover the amount due COUNTY, CONTRACTOR shall promptly pay the difference to COUNTY.

F. **TIME FOR CORRECTION.**

Any defects or deficiencies in materials or workmanship that are deemed by the Architect and/or Engineer or the COUNTY as needing immediate correction shall be addressed within thirty (30) days of written notification. Failure to correct the deficiencies within thirty (30) days will result in the deduction of time against the overall Contract Time for completion.

**SECTION 5
CONTRACTOR**

A. **CONTRACTOR DUTY.**

CONTRACTOR affirms its continuing duty to perform no part of the Work at any time without adequate Contract Documents or, as appropriate, approved Shop Drawings, Product Data or Samples for such portion of the Work. If CONTRACTOR performs any of the Work knowing it involves a recognized error, inconsistency or omission in the Contract Documents without such notice to the Architect and/or Engineer, CONTRACTOR shall bear the responsibility for such performance and shall bear the cost of correction.

B. **IN ACCORDANCE WITH THIS AGREEMENT.**

CONTRACTOR shall perform the Work strictly in accordance with this Agreement.

C. **RESPONSIBLE FOR WORK.**

CONTRACTOR shall supervise and direct the Work using CONTRACTOR's best skill, effort and attention. CONTRACTOR shall be responsible to COUNTY for any and all acts or omissions of CONTRACTOR, its employees and others engaged in the Work on behalf of CONTRACTOR.

D. **WARRANTY.**

CONTRACTOR warrants to COUNTY that all labor furnished to progress the Work under this Agreement will be competent to perform the tasks undertaken, that the product of such labor will yield only first-class results, that materials and equipment furnished will be of good quality and new unless otherwise permitted by this Agreement, and that the Work will be of good quality, free from faults and defects and in strict conformance with this Agreement. All Work not conforming to these requirements may be considered defective. When not specifically identified in the bid documents, the warranty shall commence upon the date of COUNTY's issuance of final payment to CONTRACTOR and shall be for a period of one (1) year.

E. **PERMITS AND FEES.**

CONTRACTOR shall obtain and pay for all permits, fees and licenses necessary and/or ordinary for the Work. CONTRACTOR shall comply with all lawful requirements applicable to the Work and shall give and maintain any and all notices required by applicable law pertaining to the Work.

**SECTION 6
CONTRACT ADMINISTRATION
BY ARCHITECT and/or ENGINEER**

A. **REPRESENTATIVE OF COUNTY.**

The Architect and/or Engineer, unless otherwise directed by COUNTY in writing, will perform those duties and discharge those responsibilities allocated to the Architect and/or Engineer as set forth in the Contract Documents. The Architect and/or Engineer shall be COUNTY's representative from the effective date of this Agreement until a final Certificate for Payment is issued. The Architect and/or Engineer shall be authorized to act on behalf of COUNTY only to the extent provided in the Contract Documents.

B. **COMMUNICATE THROUGH ARCHITECT AND/OR ENGINEER.**

COUNTY and CONTRACTOR shall communicate with each other in the first instance through the Architect and/or Engineer.

C. **INTERPRETER; JUDGE.**

The Architect and/or Engineer shall be the initial interpreter of the requirements of the Contract Documents and the judge of the performance thereunder by CONTRACTOR. The Architect and/or Engineer shall render written or graphic interpretations necessary for the proper execution or progress of the Work with reasonable promptness on request of CONTRACTOR.

D. **CERTIFY PAYMENT.**

The Architect and/or Engineer will review CONTRACTOR's Applications for Payment and will certify to COUNTY for payment to CONTRACTOR those amounts then due CONTRACTOR as provided in this Agreement.

E. **AUTHORITY TO REJECT WORK.**

The Architect and/or Engineer shall have authority to reject Work that is defective or does not conform to the requirements of the Contract Documents. If the Architect and/or Engineer deems it necessary or advisable, the Architect and/or Engineer shall have authority to require additional inspection or testing of the Work for compliance with requirements of the Contract Documents.

F. **APPROVE SUBMITTALS.**

The Architect and/or Engineer will review and approve, or take other appropriate action as necessary, concerning CONTRACTOR's submittals including Shop Drawings, Product Data and Samples. Such review, approval or other action shall be for the sole purpose of determining conformance with the design concept and information given through the Contract Documents.

G. **CHANGE ORDER; FIELD ORDER.**

The Architect and/or Engineer will prepare Change Orders, defined herein, and may authorize minor changes in the Work by Field Order, defined herein, as provided elsewhere herein.

H. **DETERMINE BENCHMARKS.**

The Architect and/or Engineer shall, upon written request from CONTRACTOR, conduct inspections to determine the date of Substantial Completion and the date of Final Completion, will receive and forward to COUNTY for COUNTY's review and records, written warranties and related documents required by the Contract Documents and will issue a final Certificate for Payment upon compliance with the requirements of the Contract Documents.

I. **FINAL AS TO AESTHETICS.**

The Architect's and/or Engineer's decisions in matters relating to aesthetic effect shall be final if consistent with the intent of this Agreement.

J. **CLAIMS BY CONTRACTOR; NOTICE.**

All CONTRACTOR claims shall be initiated by written notice to COUNTY and the Architect and/or Engineer. Such written notice and claim must be furnished within seven (7) days after occurrence of the event, or the first appearance of the condition, giving rise to the claim.

K. **PROCEED; CHANGE ORDER.**

Pending final resolution of any claim of CONTRACTOR, CONTRACTOR shall diligently proceed with the Work and COUNTY shall continue to make payments to CONTRACTOR in accordance with this Agreement. The resolution of any claim under this subsection shall be reflected by a Change Order executed by COUNTY, the Architect and/or Engineer and CONTRACTOR.

L. **CLAIMS FOR CONCEALED AND UNKNOWN CONDITIONS.**

Should concealed and unknown conditions be encountered in the performance of the Work (a) below the surface of the ground or (b) in an existing structure be at variance with the conditions indicated by the Contract Documents, or should unknown conditions of an unusual nature differing materially from those ordinarily encountered in the area and generally recognized as inherent in work of the character provided for in the Contract Documents, be encountered, the Agreement Price shall be equitably adjusted by Change Order upon the written notice and claim by either Party made within seven (7) days after the first observance of the condition. As a condition precedent to COUNTY having any liability to CONTRACTOR for concealed or unknown conditions, CONTRACTOR must

give COUNTY and the Architect and/or Engineer written notice and claim as provided in this subsection, and shall constitute a waiver by CONTRACTOR of any claim arising out of or relating to such concealed or unknown condition.

M. **CLAIMS FOR ADDITIONAL COST.**

If CONTRACTOR wishes to make a claim for an increase in the Agreement Price, as a condition precedent to any liability of COUNTY therefore, CONTRACTOR shall give the Architect and/or Engineer written notice of such claim within seven (7) days after the occurrence of the event, or the first appearance of the condition, giving rise to such claim. Such notice shall be given by CONTRACTOR before proceeding to execute any additional or changed Work. The failure by CONTRACTOR to timely give such notice and to give such notice prior to executing the Work shall constitute a waiver of any claim for additional compensation.

1) **Direct Costs.**

In connection with any claim by CONTRACTOR against COUNTY for compensation in excess of the Agreement Price, any liability of COUNTY for CONTRACTOR's cost shall be strictly limited to direct costs incurred by CONTRACTOR and shall in no event include indirect costs or consequential damages of CONTRACTOR. COUNTY shall not be liable to CONTRACTOR for claims of third parties, including Subcontractors, defined herein, unless and until liability of CONTRACTOR for claims of third parties has been established therefore in a court of competent jurisdiction.

N. **CLAIMS FOR ADDITIONAL TIME.**

If CONTRACTOR is delayed in progressing any task which at the time of the delay is then critical or which during the delay becomes critical, as the sole result of any act or neglect to act by COUNTY or someone acting in COUNTY's behalf, or by changes ordered in the Work, unusual delay in transportation, unusually adverse weather conditions not reasonably anticipatable, fire or any causes beyond CONTRACTOR's control, then the date for achieving Substantial Completion of the Work shall be extended upon the written notice and claim of CONTRACTOR to COUNTY and the Architect and/or Engineer, for such reasonable time as the Architect and/or Engineer may determine. Any notice and claim for an extension of time by CONTRACTOR shall be made not more than seven (7) days after the occurrence of the event or the first appearance of the condition giving rise to the claim and shall set forth in detail CONTRACTOR's basis for requiring additional time in which to complete the Project. In the event the delay to CONTRACTOR is a continuing one, only one notice and claim for additional time shall be necessary. If CONTRACTOR fails to make such claim as required in this subsection, any claim for extension of time shall be waived.

O. **FIELD ORDERS.**

In the field, the Architect and/or Engineer shall have authority to order minor changes in the Work not involving a change in the Agreement Price or Term and not inconsistent with the intent of this Agreement. Such changes shall be affected by field order ("Field Order") and shall be binding upon CONTRACTOR. CONTRACTOR shall carry out such Field Orders promptly.

SECTION 7 **SUBCONTRACTORS**

A. **"SUBCONTRACTOR" DEFINED.**

A Subcontractor is an entity which has a direct contract with CONTRACTOR to perform a portion of the Work.

B. **AWARD OF SUBCONTRACTORS.**

Upon execution of this Agreement, CONTRACTOR shall furnish COUNTY, in writing, the names of persons or entities proposed by CONTRACTOR to act as a Subcontractor on the Project. COUNTY shall promptly reply to CONTRACTOR, in writing, stating any objections COUNTY may have to such proposed Subcontractor. CONTRACTOR shall not subcontract with any Party to whom COUNTY has objections.

C. **RIGHTS AGAINST SUBCONTRACTORS.**

All subcontracts shall afford CONTRACTOR rights against the Subcontractor which correspond to those rights afforded to COUNTY against CONTRACTOR herein.

SECTION 8
CHANGES IN THE WORK

A. CHANGES PERMITTED.

Changes in the Work within the general scope of this Agreement, consisting of additions, deletions, revisions, or any combination thereof, may be ordered without invalidating this Agreement, by Change Order or by Field Order.

B. "CHANGE ORDER" DEFINED.

Change Orders shall mean a written order to CONTRACTOR executed by COUNTY and the Architect and/or Engineer, issued after execution of this Agreement, authorizing and directing a change in the Work or an adjustment in the Agreement Price or the Term, or any combination thereof. The Agreement Price and the Term may be changed only by Change Order. Changed Work cannot be started until a fully executed Change Order is on file with COUNTY; including but not limited to Change Orders that need approval of COUNTY's Board of County Commissioners.

C. HOW CHANGES ARE DETERMINED.

Any changes in the Agreement Price resulting from a Change Order shall be determined as follows: (a) by mutual agreement between COUNTY and CONTRACTOR as evidenced by (1) the change in the Agreement Price being set forth in the Change Order, (2) such change in the Agreement Price, together with any conditions or requirements related thereto, being initialed by both parties and (3) CONTRACTOR's execution of the Change Order, or (b) if no mutual agreement occurs between COUNTY and CONTRACTOR, then, as provided below.

D. ALTERNATIVELY, REASONABLE EXPENDITURES.

If no mutual agreement occurs between COUNTY and CONTRACTOR as contemplated above, the change in the Agreement Price, if any, shall then be determined by the Architect and/or Engineer on the basis of the reasonable expenditures or savings of those performing, deleting or revising the Work attributable to the change, including, in the case of an increase or decrease in the Agreement Price, a reasonable allowance for direct job site overhead and profit. In such case, CONTRACTOR shall present, in such form and with such content as COUNTY or the Architect and/or Engineer requires, an itemized accounting of such expenditures or savings plus appropriate supporting data for inclusion in a Change Order. Reasonable expenditures or savings shall be limited to the following: reasonable costs of materials, supplies, or equipment including delivery, costs, reasonable costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance, reasonable rental costs of machinery and equipment exclusive of hand tools whether rented from CONTRACTOR or others, reasonable costs of premiums for all bonds and insurance, permit fees, and sales, use or other taxes related to the Work, and reasonable cost of direct supervision and job site field office overhead directly attributable to the change. In no event shall any expenditure or savings associated with CONTRACTOR's home office or other non-job site overhead expense be included in any change in the Agreement Price. Pending final determination of reasonable expenditures or savings to COUNTY, payments on account shall be made to CONTRACTOR on the Architect and/or Engineer's Certificate for Payment.

E. UNIT PRICES EQUITABLY ADJUSTED.

If unit prices are provided in this Agreement, and if the quantities contemplated are so changed in a proposed Change Order that application of such unit prices to the quantities of changed Work proposed will cause substantial inequity to COUNTY or to CONTRACTOR, the applicable unit prices shall be equitably adjusted.

F. CHANGE ORDER EFFECT.

The execution of a Change Order by CONTRACTOR shall constitute conclusive evidence of CONTRACTOR's agreement to this Agreement as thus amended, the Agreement Price, Term and the changes in the Work. CONTRACTOR, by executing the Change Order, waives and forever releases any claim against COUNTY for additional time or compensation for matters relating to or arising out of or resulting from the Work included within or affected by the executed Change Order.

G. NOTICE; CONSENT.

CONTRACTOR shall notify and obtain the consent and approval of CONTRACTOR's surety with reference to all Change Orders if such notice, consent or approvals are required by CONTRACTOR's surety or by law. CONTRACTOR's execution of the Change Order shall constitute CONTRACTOR's warranty to COUNTY that

the surety has been notified of and consents to have expressly consented thereto. CONTRACTOR shall provide to the COUNTY a rider to the original bond as provided by the surety.

SECTION 9
UNCOVERING AND CORRECTING WORK

A. **UNCOVERING WORK.**

If any of the Work is covered contrary to the Architect's and/or Engineer's request or to any provisions of this Agreement, it shall, if required by the Architect and/or Engineer or COUNTY, be uncovered for the Architect and/or Engineer's inspection and shall be properly replaced at CONTRACTOR's expense without change in the Term.

B. **CORRECT WORK.**

CONTRACTOR shall immediately proceed to correct Work rejected by the Architect and/or Engineer as defective or failing to conform to this Agreement. CONTRACTOR shall pay all costs and expenses associated with correcting such rejected Work, including any additional testing and inspections, and reimbursement to COUNTY for the Architect's and/or Engineer's services and expenses made necessary thereby.

C. **WARRANTY.**

If within one (1) year after the date of COUNTY's issuance of final payment to CONTRACTOR any of the Work is found to be defective or not in accordance with this Agreement, CONTRACTOR shall correct it promptly upon receipt of written notice from COUNTY. This obligation shall survive final payment by COUNTY and termination of this Agreement. With respect to Work first performed and completed after Substantial Completion, this one (1) year obligation to specifically correct defective and nonconforming Work shall be extended by the period of time which elapses between Substantial Completion and completion of the subject Work.

D. **NO ESTABLISHMENT OF LIMITATIONS OF TIME.**

Nothing contained in this Section shall establish any period of limitation with respect to other obligations which CONTRACTOR has under this Agreement. Establishment of the one year time period in this Section relates only to the duty of CONTRACTOR to specifically correct the Work.

**FEE SCHEDULE
EXHIBIT C**

ITEM	DESCRIPTION	UNIT	UNIT PRICE HOURLY - NORMAL BUSINESS HRS	UNIT PRICE HOURLY - AFTERHOURS & HOLIDAYS
1.0	PERMITTING			
1.01	PERMIT ALLOWANCE	COST	REIMBURSED AT COST	
2.0	LABOR			
2.01	ESTIMATOR	HOUR	\$ 65.00	\$ 125.00
2.02	FOREMAN	HOUR	\$ 100.00	\$ 175.00
2.03	EQUIPMENT OPERATOR	HOUR	\$ 90.00	\$ 150.00
2.04	EXPEDITOR	HOUR	\$ 110.00	\$ 185.00
2.05	SKILLED LABORER	HOUR	\$ 75.00	\$ 120.00
2.06	LABORER	HOUR	\$ 60.00	\$ 90.00
2.08	TRUCK DRIVER	HOUR	\$ 60.00	\$ 90.00
4.0	MAINTENANCE OF TRAFFIC			
4.01	MAINTENANCE OF TRAFFIC ALLOWANCE	COST	REIMBURSED AT COST	
5.0	EQUIPMENT			
5.01	EQUIPMENT TRUCK	HOUR	\$ 75.00	\$ 150.00
5.02	TRAILER	HOUR	\$ 50.00	\$ 100.00
5.03	TANKER TRAILER WITH TRACTOR	HOUR	\$ 400.00	\$ 600.00
5.04	GRADE TRACTOR	HOUR	\$ 200.00	\$ 300.00
5.05	LOWBOY WITH TRACTOR	HOUR	\$ 400.00	\$ 550.00
5.06	TRACTOR WITH STREET BROOM	HOUR	\$ 100.00	\$ 150.00
5.07	SMALL LOADER	HOUR	\$ 375.00	\$ 450.00
5.08	LARGE LOADER	HOUR	\$ 425.00	\$ 500.00
5.09	DOZER	HOUR	\$ 225.00	\$ 325.00
5.10	SKID LOADER	HOUR	\$ 150.00	\$ 250.00
5.11	SINGLE AXLE TRASPORT	HOUR	\$ 175.00	\$ 275.00
5.12	TANDEM AXLE TRANSPORT	HOUR	\$ 200.00	\$ 300.00
5.13	TRI AXLE DUMP TRANSPORT	HOUR	\$ 275.00	\$ 375.00
5.14	SINGLE AXLE TRUCK	HOUR	\$ 80.00	\$ 140.00
5.15	TANDEM AXLE TRUCK	HOUR	\$ 90.00	\$ 150.00
5.16	TRI AXLE DUMP TRUCK	HOUR	\$ 100.00	\$ 150.00
5.17	AUGER-POLE TRUCK	HOUR	\$ 300.00	\$ 375.00
5.18	LIGHT TOWER	HOUR	\$ 50.00	\$ 50.00
5.19	TEMPORARY CONCRETE BARRIER WALLS (Set up & delivery included)	HOUR	\$ 300.00	\$ 350.00
5.20	CROSSING PLATE 4'X4'	HOUR	\$ 50.00	\$ 75.00
5.21	CROSSING PLATE 8'X12'	HOUR	\$ 50.00	\$ 75.00

ITEM	DESCRIPTION	UNIT	UNIT PRICE HOURLY - NORMAL BUSINESS HRS	UNIT PRICE HOURLY - AFTERHOURS & HOLIDAYS
5.22	AIR COMPRESSOR WITH JACK HAMMER AND HOSES	HOUR	\$ 100.00	\$ 150.00
5.23	TRENCH BOX	HOUR	\$ 250.00	\$ 300.00
5.24	SHORING - SHEET PILING	HOUR	\$ 500.00	\$ 550.00
5.25	CHAIN SAW	HOUR	\$ 25.00	\$ 45.00
5.26	CUT OFF SAW - PIPE SAW	HOUR	\$ 25.00	\$ 45.00
5.27	STREET SAW - SELF PROPELLED	HOUR	\$ 25.00	\$ 45.00
5.28	PIPE TAPPING MACHINE	HOUR	\$ 500.00	\$ 700.00
5.29	PIPE LASER	HOUR	\$ 30.00	\$ 50.00
5.30	TEST PUMP	HOUR	\$ 50.00	\$ 100.00
5.31	HAND TEST PUMP	HOUR	\$ 30.00	\$ 60.00
5.32	JET PUMP	HOUR	\$ 200.00	\$ 300.00
5.33	CEMENT MIXER	HOUR	\$ 50.00	\$ 75.00
5.34	GENERATOR - SMALL	HOUR	\$ 20.00	\$ 30.00
5.35	GENERATOR - 3.5KW TO 25KW	HOUR	\$ 30.00	\$ 40.00
5.36	GENERATOR - GREATER THAN 25KW	HOUR	\$ 40.00	\$ 60.00
5.37	COMPACTOR - PLATE TAMP OR JUMPING JACK	HOUR	\$ 50.00	\$ 65.00
5.38	ROLLER	HOUR	\$ 65.00	\$ 90.00
5.39	MILLING MACHINE	HOUR	\$ 500.00	\$ 750.00
5.40	WELL POINTING EQUIPMENT	HOUR	\$ 500.00	\$ 750.00
5.41	3" PUMP WITH HOSES	HOUR	\$ 100.00	\$ 125.00
5.42	4" DD PUMP WITH HOSES	HOUR	\$ 120.00	\$ 175.00
5.43	4" VACUUM PUMP WITH HOSES	HOUR	\$ 130.00	\$ 185.00
5.44	6" VACUUM PUMP WITH HOSES	HOUR	\$ 150.00	\$ 200.00
5.45	8" HYDRAULIC PUMP WITH HOSES	HOUR	\$ 200.00	\$ 275.00
5.46	PUMPER TRUCK	HOUR	\$ 500.00	\$ 650.00
5.47	WATER-TANK TRUCK 3,000 GAL	HOUR	\$ 300.00	\$ 400.00
5.48	JETTER VAC TRUCK - 16 YARD	HOUR	\$ 450.00	\$ 500.00
5.49	TRACKED HYDRAULIC EXCAVATORS – COMPACT HP 25-30 GROSS, DIGGING REACH 15', OPERATING WIEGHT 3,500 LBS WITH FRONT GRADING BLADE	HOUR	\$ 200.00	\$ 350.00
5.50	TRACKED HYDRAULIC EXCAVATORS – LIGHT HP 50 GROSS, DIGGING REACH 18', OPERATING WIEGHT 18,000 LBS WITH FRONT GRADING BLADE	HOUR	\$ 350.00	\$ 450.00
5.51	TRACKED HYDRAULIC EXCAVATORS – MEDIUM HP 92 GROSS, DIGGING REACH 25', OPERATING WIEGHT 32,000 LBS WITH FRONT GRADING BLADE	HOUR	\$ 425.00	\$ 525.00

ITEM	DESCRIPTION	UNIT	UNIT PRICE HOURLY - NORMAL BUSINESS HRS	UNIT PRICE HOURLY - AFTERHOURS & HOLIDAYS
5.52	TRACKED HYDRAULIC EXCAVATORS – LARGE	HOUR	\$ 500.00	\$ 650.00
5.53	RUBBER TIRE BACKHOE LOADER - 4WD HP 83 GROSS, FRONT LOADER CAPACITY 5,000 LBS, OPERATING WEIGHT - 14,500 LBS BACKHOE BUCKET CAPACITY 1 CUBIC YARD, DIGGING DEPTH 14'	HOUR	\$ 250.00	\$ 300.00
6.0	SUBCONTRACTOR AND MATERIALS			
6.01	SUBCONTRACTOR - NOT TO EXCEED 10%	PERCENTAGE	10%	10%
6.02	MATERIAL MARKUP - NOT TO EXCEED 10%	PERCENTAGE	10%	10%