

**RESOLUTION No. 18-199**

**A RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, AWARDED INVITATION TO BID #2018-13, "CANAL BANK STABILIZATION YEAR 5B," TO ENCO ENGINEERING CONSTRUCTION, LLC, THE LOWEST, MOST RESPONSIVE AND RESPONSIBLE BIDDER; APPROVING AN AGREEMENT BETWEEN THE CITY AND ENCO ENGINEERING CONSTRUCTION, LLC IN AN AMOUNT NOT TO EXCEED \$3,517,185.32 FOR CANAL BANK STABILIZATION AT THE DRESSELS CANAL ADJACENT TO DORAL BOULEVARD (NW 41 STREET / NW 36 STREET) BETWEEN NW 87 AVENUE AND NW 97 AVENUE; AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND ENTER INTO A CONSTRUCTION AGREEMENT WITH THE NEXT LOWEST BIDDER SUCCESSIVELY IF AN AGREEMENT CAN NOT BE NEGOTIATED WITH THE TOP BIDDER; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT AND EXPEND BUDGETED FUNDS ON BEHALF OF THE CITY IN FURTHERANCE HEREOF; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, the City of Doral (the "City") completed the Canal Feasibility Study in March 2008 in which the City's canals were studied and classified based on severity of erosion; and

**WHEREAS**, as part of the feasibility study, a canal Capital Improvement Plan (CIP) was created; and

**WHEREAS**, in November of 2016, the City was notified by the Florida Department of Transportation (FDOT) that Year 5B of the Canal Bank Stabilization Program had been awarded \$1,000,000.00 to fund a portion of the construction; and

**WHEREAS**, Resolution No. 18-62 authorized the City to enter into a Local Agency Program (LAP) Agreement to receive funding from FDOT on a cost reimbursement basis in an amount not to exceed \$1,000,000.00; and

**WHEREAS**, the City issued Invitation to Bid (ITB) #2018-13, titled Canal Bank Stabilization: Year 5B (the "ITB"), for which the City received three (3) responses by the September 28, 2018 submittal deadline, with all three (3) meeting the required criteria; and

**WHEREAS**, upon review of bids received, staff determined that ENCO Engineering Construction, LLC was the lowest most responsive and responsible bidder (the “Contractor”); and

**WHEREAS**, a copy of Contractor’s Bid Submittal, which includes the “Construction Agreement”, in substantially the form provided, the ITB Inventory, Bid Tabulation, and the FDOT Award Concurrence are all attached as Exhibit “A”, which is incorporated herein and made a part hereof by this reference; and

**WHEREAS**, staff has recommended that the City Council award the ITB to the Contractor, approve the Construction Agreement with Contractor in a not to exceed amount of \$3,517,185.32, which includes a 10% contingency to address any unforeseen conditions, and authorize the manager to execute the Construction Agreement and to expend budgeted funds from the Public Works Stormwater Fund- Contractual Services, Account #401.80005.500650 in furtherance hereof.

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, AS FOLLOWS:**

**Section 1. Recitals.** The above recitals are confirmed, adopted, and incorporated herein and made part hereof by this reference.

**Section 2. Approval.** The Construction Agreement between the City and Contractor for the Project, in substantially the form provided in Exhibit “A”, in the amount of \$3,517,185.32 which includes a 10% contingency to address any unforeseen conditions, together with such non-material changes as may be acceptable to the City Manager and approved as to form and legality by the City Attorney, is hereby approved.

**Section 3. Authorization.** The City Manager is authorized to execute the Construction Agreement and expend budgeted funds on behalf of the City in furtherance

hereof. The City Manager is further authorized to negotiate and enter into an agreement with the next highest ranked firm successively, if an agreement cannot be entered into with Contractor, provided the next bidder accepts the contract amount approved above.

**Section 4. Implementation.** The City Manager and the City Attorney are hereby authorized to take such further action as may be necessary to implement the purpose and the provisions of this Resolution.

**Section 5. Effective Date.** This Resolution shall take effect immediately upon adoption.

The foregoing Resolution was offered by Councilmember Cabrera who moved its adoption.

The motion was seconded by Councilmember Rodriguez and upon being put to a vote, the vote was as follows:

Mayor Juan Carlos Bermudez	Yes
Vice Mayor Claudia Mariaca	Yes
Councilman Pete Cabrera	Yes
Councilwoman Christi Fraga	Yes
Councilwoman Ana Maria Rodriguez	Yes

PASSED AND ADOPTED this 1 day of November, 2018.

  
\_\_\_\_\_  
JUAN CARLOS BERMUDEZ, MAYOR

ATTEST:

  
\_\_\_\_\_  
CONNIE DIAZ, CMC  
CITY CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY  
FOR THE USE AND RELIANCE OF THE CITY OF DORAL ONLY:

  
\_\_\_\_\_  
LUIS FIGUEREDO, ESQ.  
CITY ATTORNEY

# EXHIBIT “A”



**ITB #2018-13 Canal Bank Stabilization Program Year 5B Maintenance - Pedestrian - Bike Shared Use Path Improvements**

**Bid Tabulation**

<b>YEAR 5B - DRESSELS CANAL (NW 97 - NW 87)</b>				<b>ENGINEER'S ESTIMATE</b>		<b>ENCO, LLC</b>		<b>Gonzalez &amp; Sons Equipment</b>		<b>Straight Ahead Construction</b>	
<b>Item</b>	<b>Description</b>	<b>Unit</b>	<b>Qty.</b>	<b>Unit Price</b>	<b>Cost</b>	<b>Unit Price</b>	<b>Cost</b>	<b>Unit Price</b>	<b>Cost</b>	<b>Unit Price</b>	<b>Cost</b>
P-01410-1	Testing & Laboratory Services (as per project specifications)	LS	1		\$ -	\$ 10,000.00	\$ 10,000.00	\$ 29,760.00	\$ 29,760.00	\$ 80,000.00	\$ 80,000.00
P-01560-1	Mobilization	LS	1	\$ 60,000.00	\$ 60,000.00	\$ 139,000.00	\$ 139,000.00	\$ 147,915.00	\$ 147,915.00	\$ 150,000.00	\$ 150,000.00
P-01570-1	Maintenance of Traffic	LS	1	\$ 40,000.00	\$ 40,000.00	\$ 10,000.00	\$ 10,000.00	\$ 35,188.00	\$ 35,188.00	\$ 6,000.00	\$ 6,000.00
P-02110-1	Clearing and Land Preparation	SY	35,925	\$ 4.00	\$ 143,700.00	\$ 6.90	\$ 247,882.50	\$ 2.93	\$ 105,260.25	\$ 4.00	\$ 143,700.00
P-02110-2	Curb and Railing Removal (Existing Bridge Modification)	LS	1	\$ 1,200.00	\$ 1,200.00	\$ 5,000.00	\$ 5,000.00	\$ 14,360.00	\$ 14,360.00	\$ 1,900.00	\$ 1,900.00
P-02110-3	Large Tree Stump Removal (as needed)	EA	5	\$ 500.00	\$ 2,500.00	\$ 600.00	\$ 3,000.00	\$ 1,012.40	\$ 5,062.00	\$ 669.00	\$ 3,345.00
P-02110-4	Embankment Fill	CY	2,249	\$ 3.00	\$ 6,747.00	\$ 80.00	\$ 179,920.00	\$ 28.14	\$ 63,286.86	\$ 66.00	\$ 148,434.00
P-02230-1	Unclassified Excavation	CY	585	\$ 4.00	\$ 2,340.00	\$ 30.00	\$ 17,550.00	\$ 31.33	\$ 18,328.05	\$ 6.25	\$ 3,656.25
P-02240-1	Stacked Canal Bank Stabilization (CBS) Excavation	LF	8,652	\$ 20.00	\$ 173,040.00	\$ 30.00	\$ 259,560.00	\$ 16.86	\$ 145,872.72	\$ 24.50	\$ 211,974.00
P-02240-4	Stacked CBS Installation (Below 4.5 Ft-NGVD)	LF	8,652	\$ 100.00	\$ 865,200.00	\$ 75.00	\$ 648,900.00	\$ 76.71	\$ 663,694.92	\$ 108.50	\$ 938,742.00
P-02240-6	Stacked CBS Installation (Above 4.5 Ft-NGVD)	LF	8,652	\$ 80.00	\$ 692,160.00	\$ 35.00	\$ 302,820.00	\$ 68.34	\$ 591,277.68	\$ 49.00	\$ 423,948.00
P-02240-24	Stacked CBS Wrap-Around Culverts	EA	1	\$ 2,000.00	\$ 2,000.00	\$ 2,500.00	\$ 2,500.00	\$ 3,593.00	\$ 3,593.00	\$ 400.00	\$ 400.00
P-02240-25	Stacked CBS Termination at Headwalls and Bridge	EA	23	\$ 1,000.00	\$ 23,000.00	\$ 500.00	\$ 11,500.00	\$ 4,538.13	\$ 104,376.99	\$ 350.00	\$ 8,050.00
P-02435-1	Staked Turbidity Barrier	LF	10,907	\$ 2.00	\$ 21,814.00	\$ 3.00	\$ 32,721.00	\$ 2.51	\$ 27,376.57	\$ 3.00	\$ 32,721.00
P-02435-2	Floating Turbidity Barrier	LF	200	\$ 10.00	\$ 2,000.00	\$ 18.00	\$ 3,600.00	\$ 26.23	\$ 5,246.00	\$ 5.00	\$ 1,000.00
P-02444-1	Guardrail Installation	LF	10	\$ 25.00	\$ 250.00	\$ 100.00	\$ 1,000.00	\$ 44.80	\$ 448.00	\$ 129.00	\$ 1,290.00
P-02444-2	Removal of Existing Guardrail	LF	10	\$ 6.00	\$ 60.00	\$ 20.00	\$ 200.00	\$ 26.70	\$ 267.00	\$ 2.75	\$ 27.50
P-02480-1	Finish Grading and Sodding (Floritam)	SY	19,250	\$ 4.00	\$ 77,000.00	\$ 6.00	\$ 115,500.00	\$ 7.17	\$ 138,022.50	\$ 10.25	\$ 197,312.50
P-02481-1	Tree Removal	EA	36	\$ 600.00	\$ 21,600.00	\$ 650.00	\$ 23,400.00	\$ 1,802.64	\$ 64,895.04	\$ 668.50	\$ 24,066.00
P-02482-1	Tree Planting	EA	18	\$ 600.00	\$ 10,800.00	\$ 576.39	\$ 10,375.02	\$ 934.39	\$ 16,819.02	\$ 1,417.00	\$ 25,506.00
P-02513-1	Bicycle/Pedestrian Path Sub-Base Preparation	SY	7,275	\$ 4.00	\$ 29,100.00	\$ 9.00	\$ 65,475.00	\$ 6.20	\$ 45,105.00	\$ 19.35	\$ 140,771.25
P-02513-2	Bicycle/Pedestrian Path Lime Rock Base	SY	6,655	\$ 8.00	\$ 53,240.00	\$ 15.00	\$ 99,825.00	\$ 14.32	\$ 95,299.60	\$ 10.50	\$ 69,877.50
P-02513-3	Bicycle/Pedestrian Path Asphalt Concrete Pavement	SY	6,060	\$ 10.00	\$ 60,600.00	\$ 12.00	\$ 72,720.00	\$ 27.20	\$ 164,832.00	\$ 10.75	\$ 65,145.00
P-02513-4	Bicycle/Pedestrian Path Curb Ramp Termination	EA	3	\$ 1,700.00	\$ 5,100.00	\$ 4,500.00	\$ 13,500.00	\$ 1,990.33	\$ 5,970.99	\$ 1,200.00	\$ 3,600.00
P-02514-5	Bicycle/Pedestrian Aluminum Ramps and Railings	LS	3	\$ 100,000.00	\$ 300,000.00	\$ 40,400.40	\$ 121,201.20	\$ 41,239.33	\$ 123,717.99	\$ 49,248.00	\$ 147,744.00
P-02520-1	Metal Railing	LF	130	\$ 52.00	\$ 6,760.00	\$ 124.50	\$ 16,185.00	\$ 155.70	\$ 20,241.00	\$ 168.00	\$ 21,840.00
P-02525-1	Stone Rip-Rap	CY	1,055	\$ 75.00	\$ 79,125.00	\$ 150.00	\$ 158,250.00	\$ 144.39	\$ 152,331.45	\$ 182.00	\$ 192,010.00
P-02525-2	Bedding Stone	CY	4,810	\$ 60.00	\$ 288,600.00	\$ 95.00	\$ 456,950.00	\$ 70.52	\$ 339,201.20	\$ 72.75	\$ 349,927.50
P-02580-1	Pavement Marking (2' White)	LF	80	\$ 1.00	\$ 80.00	\$ 5.00	\$ 400.00	\$ 4.80	\$ 384.00	\$ 1.75	\$ 140.00
P-02580-2	Pavement Marking (4"Yellow) 3'-9" skip	GM	0.965	\$ 350.00	\$ 337.75	\$ 3,500.00	\$ 3,377.50	\$ 5,729.90	\$ 5,529.35	\$ 700.00	\$ 675.50
P-02580-3	White arrows	EA	10	\$ 400.00	\$ 4,000.00	\$ 100.00	\$ 1,000.00	\$ 25.60	\$ 256.00	\$ 41.25	\$ 412.50
P-02580-4	Pavement Marking (12" White)	LF	55	\$ 1.00	\$ 55.00	\$ 4.00	\$ 220.00	\$ 1.25	\$ 68.75	\$ 1.05	\$ 57.75
P-02778-1	Non-Woven Geosynthetic Filter Fabric (Rip-Rap)	SY	3,615	\$ 36.00	\$ 130,140.00	\$ 3.00	\$ 10,845.00	\$ 1.54	\$ 5,567.10	\$ 3.00	\$ 10,845.00
P-02831-1	Chain Link Fencing	LF	4,240	\$ 27.50	\$ 116,600.00	\$ 31.10	\$ 131,864.00	\$ 25.60	\$ 108,544.00	\$ 30.60	\$ 129,744.00
P-02831-2	Bollards	EA	5	\$ 300.00	\$ 1,500.00	\$ 600.00	\$ 3,000.00	\$ 595.00	\$ 2,975.00	\$ 400.00	\$ 2,000.00
P-02840-1	Signage	EA	40	\$ 100.00	\$ 4,000.00	\$ 350.00	\$ 14,000.00	\$ 326.40	\$ 13,056.00	\$ 395.00	\$ 15,800.00
P-02840-4	Manatee Grates	EA	7	\$ 600.00	\$ 4,200.00	\$ 600.00	\$ 4,200.00	\$ 1,912.00	\$ 13,384.00	\$ 835.00	\$ 5,845.00
					\$ -		\$ -		\$ -		\$ -
<b>BID TOTAL</b>					<b>\$ 3,228,848.75</b>		<b>\$ 3,197,441.22</b>		<b>\$ 3,277,513.03</b>		<b>\$ 3,558,507.25</b>
* Bid Submittal Amount							* \$ 3,197,441.20		* \$ 3,277,324.00		* \$ 3,556,102.25



*Florida Department of Transportation*

RICK SCOTT  
GOVERNOR

1000 NW 111 Avenue  
Miami, FL 33172-5800

MIKE DEW  
SECRETARY

October 15, 2018

Carlos Arroyo, CFM  
Assistant Public Works Director/Chief of Construction  
City of Doral  
8401 NW 53rd Terrace  
Doral, FL 33166

Subject: **Concurrence Letter for Construction Award**  
Bike/ Pedestrian Use Path and Canal Bank Stabilization & Improvements  
FM # 440838-1  
Contract: G0Z13  
Federal ID: D618-029-B  
County: Miami-Dade

Dear Mr. Arroyo:

The Florida Department of Transportation (FDOT) has received the subject Local Agency Program (LAP) project's bid tabulation and request for award concurrence. This letter serves as a concurrence from the Florida Department of Transportation to the City of Doral to proceed with the award recommendation to ENCO LLC.

Please be advised that, per 23 CFR 635.116 (b), all subcontractor's contracts must be reviewed and approved by the Department prior to execution by the prime contractor.

Attached please find:

- A Performance Evaluation form that FDOT will use, upon closing the project, to evaluate your Agency during the execution and management of the subject project;
- An Excel workbook containing Invoicing instructions and templates for LAP reimbursement requests

Please contact District VI LAP Project Manager Alfredo Reyna at (305) 470-5288 if you have any questions or concerns.

Sincerely,

Xiomara Nunez, MBA  
District Local Program Administrator

Attachments:  
LAP Performance Evaluation Form, Invoicing Instructions and Templates Workbook  
Cc: Alfredo Reyna, File

## SECTION 00500 - CONSTRUCTION CONTRACT

This Contract (the "Contract") is dated as of the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_ by and between the City of Doral (hereinafter called the "CITY") and **ENCO, LLC** (hereinafter called "CONTRACTOR") located at: **5411 SW 25 Court, Pembroke Park, FL 33023.**

CITY and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

### **ARTICLE 1 – WORK**

**1.1** Project/Work: CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as the following: The Project consists of **Canal Bank Stabilization Year 5B Maintenance - Pedestrian - Bike Shared Use Path Improvements**, all in accordance with the construction drawings.

### **ARTICLE 2 – CITY’S REPRESENTATIVE, ARCHITECT AND ENGINEER**

**2.1** It is understood that the CITY will designate a representative for the Work. The CITY’S REPRESENTATIVE referred to in any of the Contract Documents designated herein is **Jorge Gomez, P.E., Public Works Director**, at City of Doral Government Center, 8401 NW 53<sup>rd</sup> Terrace Doral, Florida 33166.

**2.2** The CITY’S ARCHITECT referred to in any of the Contract Documents designated herein is \_\_\_\_\_ N/A \_\_\_\_\_, \_\_\_\_\_ N/A \_\_\_\_\_.

**2.3** The CITY’S ENGINEER referred to in any of the Contract Documents designated herein is **Alex Vazquez, P.E., ADA Engineering**, 8550 NW 33 Street, Doral, FL 33122.

### **ARTICLE 3 – TERM**

**3.1** Contract Times. The Work shall be completed and ready for final payment in accordance with the Contract Documents within ***one hundred and eighty (180) calendar days*** after the date specified in the Notice to Proceed ("Final Completion").

**3.2** Term. This Contract shall not be effective until it is fully executed between the CITY and the CONTRACTOR. The term of the Contract shall be through the date of final payment unless terminated earlier pursuant to Section 00710 – General Conditions, Article 12, Suspension of Work and Termination.

**3.3** Survival of Obligations. Any obligations by the CONTRACTOR, including but not limited to those set forth in Section 00710 – General Conditions, Article 13, Contractor’s General Warranty and Guarantee, that would or could occur after the date of expiration or termination of the Contract shall survive the termination or expiration of the Contract.

**3.4** Liquidated Damages. CITY and CONTRACTOR recognize that time is of the essence in this Contract and that the CITY will suffer financial loss if the Work is not completed within the contract times specified in Section 3.1 for the Work above, plus any approved extensions thereof allowed in



accordance with the General Conditions. The CONTRACTOR also recognizes the delays, expense and difficulties involved in proving the actual loss suffered by CITY if the Work is not completed on time. Accordingly, instead of requiring any such proof, CITY and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay CITY **\$1,742.00** for each calendar day that expires after the time specified in Section 3.1 for Substantial Completion of the Work. After Final Completion, if CONTRACTOR shall neglect, refuse or fail to complete the remaining Work within the time specified in Section 3.1 for completion and readiness for final payment or any proper extension thereof granted by CITY, CONTRACTOR shall pay CITY **\$1,742.00** for each calendar day that expires after the time specified in Section 3.1 for completion and readiness for final payment.

**3.5** Should the Final Completion and acceptance of Work, together with any modification or additions, be delayed beyond the time for performance set in Section 3.1 above because of lack of performance by the CONTRACTOR, it is understood and agreed that aside from any other liquidated damages, all actual additional costs or losses incurred by the CITY including, but not limited to, completion contractor services, financing, professional services, unrealized revenue, will be the responsibility of the CONTRACTOR.

**3.6** Monies due to the CITY under Sections 3.4 and 3.5 shall be deducted from any monies due the CONTRACTOR, or if no money is due or the amount due is insufficient to cover the amount charged the CONTRACTOR shall be liable for said amount.

#### **ARTICLE 4 – CONTRACT PRICE**

**4.1** CITY shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to this Article. The CONTRACTOR shall provide the Work at a not to exceed amount of **\$3,197,441.22**,

Three Million One Hundred Ninety-Seven Thousand Four Hundred Forty-One and Twenty-Two Cents.

(Written Amount)

**4.1.1** For all Unit Price Work, an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the estimated quantity of that item as indicated on the Unit Price Bid Form Section 00410. Estimated quantities are not guaranteed, and determination of actual quantities and classification are to be made by ENGINEER as provided in the Contract Documents.

**4.2** The CONTRACTOR agrees that all specific cash allowances are included in the above Contract Price and have been computed in accordance with the Contract Documents.

#### **ARTICLE 5 – PAYMENT PROCEDURES**

**5.1** CONTRACTOR shall submit Applications for Payment in accordance with the Section 00710 - General Conditions, Article 11, Payments to Contractor and Completion. Applications for Payment will be processed by CITY as provided in the General Conditions.

**5.2** Progress Payments, Retainage. CITY shall make progress payments, deducting the amount from the Contract Price above, on the basis of CONTRACTOR'S Applications for Payment as recommended by the CITY'S REPRESENTATIVE, on or about the last day of each month during

construction as provided herein. All such payments will be made in accordance with the schedule of values established in the General Conditions or, in the event there is no schedule of values, as provided in the General Conditions.

**5.2.1** No progress payment shall be made until CONTRACTOR delivers to the CITY complete original partial releases of all liens and claims signed by all Subcontractors, materialmen, suppliers, and vendors, indicating amount of partial payment, on a form approved by the CITY, and an affidavit that so far as the CONTRACTOR has knowledge or information, the releases include and cover all Materials and Work for which a lien or claim could be filed for work completed to date.

**5.3** The CONTRACTOR agrees that ten percent (10%) of the amount due for Work as set forth in each Application for Payment shall be retained by CITY for each Progress Payment until Final Payment, as defined in Section 00710 - General Conditions, Article 11, Payments to Contractor and Completion.

**5.3.1** Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated above, but, in each case, less the aggregate of payments previously made and less such amounts as CITY'S REPRESENTATIVE shall determine, or CITY may withhold, in accordance with the General Conditions.

**5.4** The payment of any Application for Payment by CITY, including the Final Request, does not constitute approval or acceptance by CITY of any item of the Work in such Request for Payment, nor shall it be construed as a waiver of any of CITY's rights hereunder or at law or in equity.

**5.5** The Final Application for Payment by CONTRACTOR shall not be made until the CONTRACTOR delivers to the CITY complete original releases of all liens and claims signed by all Subcontractors, materialmen, suppliers, and vendors on a form approved by the CITY, and an affidavit that so far as the CONTRACTOR has knowledge or information, the releases include and cover all Materials and Work for which a lien or claim could be filed. The CONTRACTOR may, if any Subcontractor, materialmen, supplier or vendor refuses to furnish the required Final Waiver of Lien, furnish a bond satisfactory to CITY to defend and indemnify CITY and any other property owner, person or entity CITY may be required to indemnify against any lien or claim.

**5.6** Final Payment. Upon final completion and acceptance of the Work in accordance with the General Conditions, CITY shall pay the remainder of the Contract Price and any retainage as recommended by the CITY'S REPRESENTATIVE.

## **ARTICLE 6 – INSURANCE/INDEMNIFICATION.**

Insurance. The CONTRACTOR shall secure, maintain, and provide throughout the duration of this Contract, insurance certificates in accordance to Exhibit A. The City reserves the right to amend insurance requirements in connection with this project. Indemnification. The CONTRACTOR shall indemnify, defend and hold harmless the CITY, it's elected officials, agents, employees, and volunteers as set forth in General Conditions of the Contract Documents, or applicable sections in the agreement.

To the fullest extent permitted by law, the City's contractor shall indemnify and hold harmless the Agency, the State of Florida, Department of Transportation, and its officers

and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of the contractor and persons employed or utilized by the contractor in the performance of this Contract.

This indemnification shall survive the termination of this Contract. Nothing contained in this paragraph is intended to nor shall it constitute a waiver of the State of Florida and the City's sovereign immunity.

**6.1 CONTRACTOR'S REPRESENTATIONS.** In order to induce CITY to enter into this Contract, CONTRACTOR makes the following representations:

**6.2** CONTRACTOR has examined and carefully studied the Contract Documents (including the Addenda) and the other related data identified in the Bidding Documents including "technical data."

**6.3** CONTRACTOR has visited the site and become familiar with and is satisfied as to the general, local and site conditions that may affect cost, progress, performance or furnishing of the Work.

**6.4** CONTRACTOR is familiar with and is satisfied as to all federal, state and local Laws and Regulations that may affect cost, progress, performance and furnishing of the Work.

**6.5** CONTRACTOR has made, or caused to be made, examinations, investigations, tests, or studies as necessary to determine surface and subsurface conditions at or on the site. CONTRACTOR acknowledges that CITY does not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Contract Documents with respect to underground facilities at or contiguous to the site. CONTRACTOR has obtained and carefully studied (or assumes responsibility for having done so) all such additional supplementary examinations, investigations, explorations, tests, studies and data concerning conditions (surface, subsurface and Underground Facilities) at or contiguous to the site or otherwise which may affect cost, progress, performance or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences and procedures of construction to be employed by CONTRACTOR and safety precautions and programs incident thereto. CONTRACTOR does not consider that any additional examinations, investigations, explorations, tests, studies or data are necessary for the performance and furnishing of the Work at the Contract Price, within the Contract Times and in accordance with the other terms and conditions of the Contract Documents.

**6.6** The CONTRACTOR is aware of the general nature of Work to be performed by CITY and others at the site that relates to the Work as indicated in the Contract Documents.

**6.7** The CONTRACTOR has correlated the information known to CONTRACTOR, information and observations obtained from visits to the site, reports and drawings identified in the Contract Documents and all additional examinations, investigations, explorations, tests, studies and data with the Contract Documents.

**6.8** The CONTRACTOR has given the CITY'S REPRESENTATIVE written notice of all conflicts, errors, ambiguities or discrepancies that CONTRACTOR has discovered in the Contract Documents and the written resolution thereof by the CITY'S REPRESENTATIVE is acceptable to CONTRACTOR, and the

Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

**6.9** The CONTRACTOR warrants the following:

**6.9.1** Anti-Discrimination: The CONTRACTOR agrees that it will not discriminate against any employees or applicants for employment or against persons for any other benefit or service under this Contract because of race, color, religion, sex, national origin, or physical or mental handicap where the handicap does not affect the ability of an individual to perform in a position of employment, and to abide by all federal and state laws regarding non-discrimination.

**6.9.2** Anti-Kickback: The CONTRACTOR warrants that no person has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, and that no employee or officer of the CITY or any other applicable federal or state agency, has any interest, financially or otherwise, in the Project. For breach or violation of this warranty, the CITY shall have the right to annul this Contract without liability or, in its discretion, to deduct from the Contract Price or consideration, the full amount of such commission, percentage, brokerage or contingent fee.

**6.9.3** Licensing and Permits: The CONTRACTOR warrants that it shall have, prior to commencement of work under this Contract and at all times during said work, all required licenses and permits whether federal, state, County or City.

**6.9.4** Public Entity Crime Statement: The CONTRACTOR warrants that it has not been placed on the convicted vendor list following a conviction for public entity crime, as specified in Section 00456, of the Instructions to Bidders.

**ARTICLE 7 – CONTRACT DOCUMENTS.**

**7.1** The Contract Documents listed below, which are listed in their order of precedence for the purpose of resolving conflicts, errors and discrepancies, by this reference shall become a part of the Contract as though physically attached as a part thereof:

- 7.1.1** Change Orders.
- 7.1.2** Field Orders.
- 7.1.3** Contract for Construction.
- 7.1.4** Exhibits to this Contract.
- 7.1.5** Supplementary Conditions.
- 7.1.6** General Conditions.
- 7.1.7** Any federal, state, county or city permits for the Project
- 7.1.8** Specifications bearing the title: Canal Bank Stabilization Program Years 5 and 5B Technical Specifications.

- 7.1.9** Drawings consisting of a cover sheet and inclusive of all sheets bearing the following general titles: Canal Embankment Restoration Program Fiscal Year 5B.
- 7.1.10** Bid Documents, including but not limited to: Addendum, Invitation to Bid, Instructions to Bidders, Bid Form provided by CONTRACTOR, Notice of Award and Notice to Proceed.
- 7.1.11** Addenda subject matter takes the same precedence of the respective subject matter that it is modifying. Furthermore, each subsequent addendum takes precedence over previous addenda.
- 7.1.12** The documents listed above shall be incorporated into this Contract (except as expressly noted otherwise above).
- 7.1.13** There are no Contract Documents other than those listed above in this Article. The Contract Documents may only be amended, modified or supplemented as provided in the General Conditions.
- 7.1.14** The Contract Documents shall remain the property of the CITY. The CONTRACTOR shall have the right to keep one record set of the Contract Documents upon completion of the Project; provided; however, that in no event shall the CONTRACTOR use, or permit to be used, any or all of such Contract Documents on other projects without the City's prior written authorization.
- 7.1.15** The General Conditions discuss the bond and surety requirements of the CITY. This Contract does [x], does not [ ] require bonds. If the Contract does not require bonds, the references to bonds in the General Conditions do not apply to this Contract.

## **ARTICLE 8 – MISCELLANEOUS.**

- 8.1** Terms used in this Contract which are defined in Article 1 of the General Conditions will have the meanings indicated in the General Conditions. Terms used in Article 1 of the Instructions to Bidders also apply to this Contract.
- 8.2** Except as otherwise provided in the Contract Documents with respect to subcontractors, no assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party thereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.
- 8.3** CITY and CONTRACTOR each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.

**8.4 Severability.** Should any provision, paragraph, sentence, word, or phrase contained in this Contract be determined by a court of competent jurisdiction to be invalid, illegal, or otherwise unenforceable under the laws of the State of Florida, such provision, paragraph, sentence, word, or phrase shall be deemed modified to the extent necessary in order to conform with such laws, then shall be deemed severable, and in this Contract, shall remain unmodified and in full force and effect.

**8.5 Remedies.** If and when any default of this Contract occurs, the CITY may avail itself of any legal or equitable remedies that may apply, including, but not limited to, actual damages and specific performance. Such remedies may be exercised in the sole discretion of the CITY. Nothing contained in this Contract shall limit the CITY from pursuing any legal or equitable remedies that may apply.

**8.6 Access to Public Records.** The CONTRACTOR shall comply with the applicable provisions of Chapter 119, Florida Statutes. The CITY shall have the right to immediately terminate this contract for the refusal by the Contractor to comply with Chapter 119, Florida Statutes. The Contractor shall retain all records associated with this Contract for a period of five (5) years from the date of Final Payment or Termination of this Contract and when requested shall be made available to the City, FHWA, Office of the Inspector General, FDOT, and State of Florida.

**8.7 Inspection and Audit.** During the term of this Contract and for five (5) years from the date of Termination, the CONTRACTOR shall allow CITY representatives, FHWA, Office of the Inspector General, FDOT, and State of Florida, access during reasonable business hours to CONTRACTOR'S records related to this Contract for the purposes of inspection or audit of such records. If upon an audit of such records, the CITY determines the CONTRACTOR was paid for services not performed, upon receipt of written demand by the CITY, the CONTRACTOR shall remit such payments to the CITY.

**8.8 Counterparts.** This contract may be signed in one or more counterparts, each of which when executed shall be deemed an original and together shall constitute one and the same instrument.

**8.9 Notices.** Whenever any party is required to give or deliver any notice to any other party, or desires to do so, such notices shall be sent via certified mail or hand delivery to:

FOR CITY: Edward Rojas, City Manager  
City of Doral  
8401 NW 53<sup>rd</sup> Terrace  
Doral, Florida 33166

WITH COPY TO: Luis Figueredo, ESQ., City Attorney  
City of Doral  
8401 NW 53<sup>rd</sup> Terrace  
Doral, Florida 33166

FOR CONTRACTOR: Wilson Sanchez, President  
ENCO, LLC  
5411 SW 25 Court  
Pembroke Park, FL 33023

**8.10 WAIVER OF JURY TRIAL AND VENUE.** The CITY and CONTRACTOR knowingly, irrevocably, voluntarily and intentionally waive any right either may have to a trial by jury in State and or Federal court proceedings in respect to any action, proceeding, lawsuit or counterclaim based upon the Contract, arising out of, under, or in connection with the Work, or any course of conduct, course of dealing, statements or actions or inactions of any party. The venue for any lawsuit arising out of this Contract shall be in Miami-Dade County, Florida.

**8.11 Attorneys' Fees.** If either the CITY or CONTRACTOR is required to enforce the terms of the Contract by court proceedings or otherwise, whether or not formal legal action is required, the prevailing party shall be entitled to recover from the other party all such costs and expenses, including, but not limited to, court costs, and reasonable attorneys' fees at the trial and appellate level.

**8.12 Amendments.** This Contract may only be amended by the prior written approval of the parties or by execution of a Change Order in the form attached hereto as Exhibit "B".

**8.13 CONTRACTOR** shall comply with the provisions of FHWA Form 1273 included in Section 00010 (Attachments) of this document and will include FHWA Form 1273 in all contracts with subcontractors

**8.14** IN WITNESS WHEREOF, the parties hereto have made and executed this Contract on the respective dates under each signature: THE CITY OF DORAL, FLORIDA, signing by and through its City Manager, authorized to execute same by Council action on the 1<sup>st</sup> day of **November, 2018**, and by **ENCO, LLC** (*Contractor*), signing by and through its **President**, duly authorized to execute same.

WITNESS

CONTRACTOR

By: \_\_\_\_\_  
(*Signature and Corporate Seal*)

\_\_\_\_\_  
(*Contractor*)

\_\_\_\_\_  
(*Print Name and Title*)

\_\_\_\_\_  
(*Signature*)

\_\_\_\_\_  
(*Print Name and Title*)

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

ATTEST

CITY OF DORAL

\_\_\_\_\_  
Connie Diaz, City Clerk

\_\_\_\_\_  
Edward Rojas, City Manager

APPROVED AS TO FORM AND LEGALITY FOR THE USE  
AND BENEFIT OF THE CITY OF DORAL ONLY:

\_\_\_\_\_  
Luis Figueredo, ESQ.  
City Attorney

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



CERTIFICATE AS TO CORPORATE PRINCIPAL

I, \_\_\_\_\_, certify that I am the \_\_\_\_\_ of \_\_\_\_\_ and that \_\_\_\_\_, who signed the Bid with the City of Doral, Miami-Dade County, Florida for \_\_\_\_\_, is \_\_\_\_\_ of said Corporation with full authority to sign said Bid on behalf of the Corporation.

Signed and sealed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

(SEAL) \_\_\_\_\_  
Signature

\_\_\_\_\_  
Type Name and Title

STATE OF FLORIDA  
COUNTY OF MIAMI-DADE

SWORN TO AND SUBSCRIBED before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

My Commission Expires:

\_\_\_\_\_  
Notary Public

CERTIFICATE AS TO AUTHORIZED CORPORATE PERSONNEL

I, \_\_\_\_\_, certify that I am the \_\_\_\_\_ of \_\_\_\_\_, who signed the Bid with the City of Doral, Miami-Dade County, Florida, for the project titled \_\_\_\_\_, and that the following persons have the authority to sign payment requests on behalf of the Corporation:

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(Signature) (Typed Name) (Title)

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(Signature) (Typed Name) (Title)

---

(Signature) (Typed Name) (Title)

Signed and sealed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

(SEAL) \_\_\_\_\_  
Signature

\_\_\_\_\_  
Type Name and Title

STATE OF FLORIDA  
COUNTY OF MIAMI-DADE

SWORN TO AND SUBSCRIBED before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

My Commission Expires:

\_\_\_\_\_  
Notary Public