

**RESOLUTION NO. 14-02**

**A RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA ACCEPTING THE LOW BID AND APPROVING A CONTRACT BETWEEN THE CITY AND ROCK POWER PAVING, INC.; IN AN AMOUNT NOT TO EXCEED \$1,141,697.95 FOR CITYWIDE STORMWATER IMPROVEMENTS; AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT AND EXPEND BUDGETED FUNDS ON BEHALF OF THE CITY; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, in response to Invitation to Bid #2013-26 titled “Stormwater Improvements, Maintenance and Repairs”, the City of Doral received four (4) bids by the December 9, 2013 deadline with three (3) companies meeting the required criteria (the “Project”); and

**WHEREAS**, upon review of bids received, Staff determined that Rock Power Paving, Inc. was the lowest most responsive and responsible bidder (the “Contractor”); and

**WHEREAS**, a copy of Contractor’s Bid Submittal, ITB #2013-26 Inventory, and the Bid Tabulation are attached as Exhibit A; and

**WHEREAS**, the City Council finds that accepting the bid and entering into a contract for the Project with the Contractor is in the best interest of the City.

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

**Section 1. Recitals.** The above recitals are true and correct and incorporated herein.

**Section 2.**    **Approval.**    The Contract between the City and Contractor for the Project in an amount not to exceed \$\$1,141,697.95 a copy of which is attached hereto as Exhibit "A," 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. The City Manager is authorized to execute the Contract and expend budgeted funds on behalf of the City.

**Section 3.**    **Effective Date.**    This Resolution shall take effect immediately upon adoption.

The foregoing resolution was offered by Vice Mayor Fraga who moved its adoption. The motion was seconded by Councilmember Rodriguez Aguilera and upon being put to a vote, the vote was as follows:

Mayor Luigi Boria	Yes
Vice Mayor Christi Fraga	Yes
Councilwoman Ana Maria Rodriguez	Yes
Councilwoman Bettina Rodriguez Aguilera	Yes
Councilwoman Sandra Ruiz	Yes


PASSED and ADOPTED this 15<sup>th</sup> day of January, 2014

  
\_\_\_\_\_  
LUIGI BORIA, MAYOR

ATTEST:

  
\_\_\_\_\_  
BARBARA HERRERA, CITY CLERK

APPROVED AS TO FORM AND LEGALITY FOR THE USE  
AND RELIANCE OF THE CITY OF MARATHON, FLORIDA ONLY:

  
\_\_\_\_\_  
JOHN R. HERIN, JR., CITY ATTORNEY

# EXHIBIT “A”

Stormwater Improvements, Maintenance, and Repairs

ITB #2013-26

Bid Tabulation

				Enviro Waste Services Group, Inc.		Rock Power Paving, Inc.		Magna Construction, Inc.	
Item	Description	Unit	QTY	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount
1	Emergency Mobilization (Emergency Repairs)	EA	1	\$ 5,000.00	\$ 5,000.00	\$ 1,500.00	\$ 1,500.00	\$ 500.00	\$ 500.00
2	Mobilization/Demobilization (Project under \$10,000)	EA	5	\$ 100.00	\$ 500.00	\$ 620.00	\$ 3,100.00	\$ 100.00	\$ 500.00
3	Mobilization/Demobilization (Project between \$10,001 - \$20,000)	EA	5	\$ 100.00	\$ 500.00	\$ 680.00	\$ 3,400.00	\$ 100.00	\$ 500.00
4	Mobilization/Demobilization (Project between \$20,001 - \$30,000)	EA	5	\$ 100.00	\$ 500.00	\$ 800.00	\$ 4,000.00	\$ 100.00	\$ 500.00
5	Mobilization/Demobilization (Project between \$30,001 - \$50,000)	EA	5	\$ 100.00	\$ 500.00	\$ 900.00	\$ 4,500.00	\$ 100.00	\$ 500.00
6	Mobilization/Demobilization (Project above \$50,000)	EA	5	\$ 100.00	\$ 500.00	\$ 100.00	\$ 500.00	\$ 100.00	\$ 500.00
7	Maintenance of Traffic (for emergency mobilization)	EA	1	\$ 2,500.00	\$ 2,500.00	\$ 1,000.00	\$ 1,000.00	\$ 1,500.00	\$ 1,500.00
8	Maintenance of Traffic (Project under \$10,000)	EA	5	\$ 1,000.00	\$ 5,000.00	\$ 500.00	\$ 2,500.00	\$ 1,000.00	\$ 5,000.00
9	Maintenance of Traffic (Project between \$10,001 - \$20,000)	EA	5	\$ 2,500.00	\$ 12,500.00	\$ 650.00	\$ 3,250.00	\$ 1,000.00	\$ 5,000.00
10	Maintenance of Traffic (Project between \$20,001 - \$30,000)	EA	5	\$ 3,500.00	\$ 17,500.00	\$ 700.00	\$ 3,500.00	\$ 3,000.00	\$ 15,000.00
11	Maintenance of Traffic (Project between \$30,001 - \$50,000)	EA	5	\$ 5,500.00	\$ 27,500.00	\$ 900.00	\$ 4,500.00	\$ 3,000.00	\$ 15,000.00
12	Maintenance of Traffic (Project above \$50,000)	EA	5	\$ 6,500.00	\$ 32,500.00	\$ 1,800.00	\$ 9,000.00	\$ 3,000.00	\$ 15,000.00
13	Removal of Existing Drainage Structure (includes removal and disposal)	EA	10	\$ 500.00	\$ 5,000.00	\$ 512.00	\$ 5,120.00	\$ 750.00	\$ 7,500.00
14	Installation of Type P Drainage Structure	EA	15	\$ 3,250.00	\$ 48,750.00	\$ 1,615.00	\$ 24,225.00	\$ 2,000.00	\$ 30,000.00
15	Removal of Existing Manhole Top (includes removal and disposal of existing structure)	EA	15	\$ 200.00	\$ 3,000.00	\$ 441.00	\$ 6,615.00	\$ 500.00	\$ 7,500.00
16	Installation of Storm Manhole Top	EA	15	\$ 425.00	\$ 6,375.00	\$ 1,514.00	\$ 22,710.00	\$ 650.00	\$ 9,750.00
17	Removal of Existing Top (inlet/manhole)(includes removal and disposal of existing structure)	EA	1	\$ 200.00	\$ 200.00	\$ 400.00	\$ 400.00	\$ 750.00	\$ 750.00
18	Furnish and Install Curb Inlet Top Type 1 (as per FDOT Design Standards)	EA	5	\$ 1,425.00	\$ 7,125.00	\$ 2,200.00	\$ 11,000.00	\$ 4,700.00	\$ 23,500.00
19	Furnish and Install Curb Inlet Top Type 2 (as per FDOT Design Standards)	EA	5	\$ 1,525.00	\$ 7,625.00	\$ 2,200.00	\$ 11,000.00	\$ 4,700.00	\$ 23,500.00
20	Furnish and Install Curb Inlet Top Type 3 (as per FDOT Design Standards)	EA	5	\$ 1,625.00	\$ 8,125.00	\$ 2,310.00	\$ 11,550.00	\$ 4,700.00	\$ 23,500.00
21	Furnish and Install Curb Inlet Top Type 4 (as per FDOT Design Standards)	EA	5	\$ 1,725.00	\$ 8,625.00	\$ 1,870.00	\$ 9,350.00	\$ 4,700.00	\$ 23,500.00
22	Furnish and Install Curb Inlet Top Type 5 (as per FDOT Design Standards)	EA	15	\$ 1,925.00	\$ 28,875.00	\$ 2,471.00	\$ 37,065.00	\$ 2,700.00	\$ 40,500.00
23	Furnish and Install Curb Inlet Top Type 6 (as per FDOT Design Standards)	EA	15	\$ 2,000.00	\$ 30,000.00	\$ 2,801.33	\$ 42,019.95	\$ 3,000.00	\$ 45,000.00
24	Furnish and Install Curb Inlet Top Type 7 (as per FDOT Design Standards)	EA	1	\$ 2,125.00	\$ 2,125.00	\$ 2,706.00	\$ 2,706.00	\$ 4,600.00	\$ 4,600.00
25	Furnish and Install Curb Inlet Top Type 8 (as per FDOT Design Standards)	EA	1	\$ 2,475.00	\$ 2,475.00	\$ 2,800.00	\$ 2,800.00	\$ 4,600.00	\$ 4,600.00
26	Furnish and Install Curb Inlet Top Type 9 (as per FDOT Design Standards)	EA	10	\$ 2,575.00	\$ 25,750.00	\$ 2,068.00	\$ 20,680.00	\$ 2,200.00	\$ 22,000.00
27	Furnish and Install Curb Inlet Top Type 10 (as per FDOT Design Standards)	EA	10	\$ 2,750.00	\$ 27,500.00	\$ 2,343.00	\$ 23,430.00	\$ 2,300.00	\$ 23,000.00
28	Furnish and Install Exfiltration Trench - 18" Pipe Perforated HDPE (4' wide trench)(includes asphalt removal, excavation, backfilling of all sub-grade material, limerock base, and disposal of excess)	LF	1500	\$ 130.00	\$ 195,000.00	\$ 110.00	\$ 165,000.00	\$ 100.00	\$ 150,000.00
29	Furnish and Install Exfiltration Trench - 24" Pipe Perforated HDPE (5' wide trench)(includes asphalt removal,excavation, backfilling of all sub-grade material, limerock base, and disposal of excess)	LF	1000	\$ 145.00	\$ 145,000.00	\$ 133.00	\$ 133,000.00	\$ 110.00	\$ 110,000.00
30	Furnish and Install 15" Solid-Wall HDPE Pipe (include asphalt removal, excavation, backfill of sub-grade material, limerock base, and disposal of excess)	LF	500	\$ 60.00	\$ 30,000.00	\$ 80.00	\$ 40,000.00	\$ 45.00	\$ 22,500.00
31	Furnish and Install 18" Solid-Wall HDPE Pipe (include asphalt removal, excavation, backfill of sub-grade material, limerock base, and disposal of excess)	LF	800	\$ 75.00	\$ 60,000.00	\$ 55.00	\$ 44,000.00	\$ 50.00	\$ 40,000.00
32	Furnish and Install 24" Solid-Wall HDPE Pipe (include asphalt removal, excavation, backfill of sub-grade material, limerock base, and disposal of excess)	LF	350	\$ 75.00	\$ 26,250.00	\$ 65.00	\$ 22,750.00	\$ 55.50	\$ 19,425.00
33	Grading of Grass Swale Area	SF	15000	\$ 1.75	\$ 26,250.00	\$ 0.90	\$ 13,500.00	\$ 0.50	\$ 7,500.00
34	Furnish and Install Sod	SY	1600	\$ 4.59	\$ 7,344.00	\$ 3.00	\$ 4,800.00	\$ 6.00	\$ 9,600.00
35	Flowable Fill	CY	20	\$ 150.00	\$ 3,000.00	\$ 155.00	\$ 3,100.00	\$ 180.00	\$ 3,600.00
36	Core Drill, Tie & Seal to Existing Drain Structure	EA	15	\$ 975.00	\$ 14,625.00	\$ 350.00	\$ 5,250.00	\$ 750.00	\$ 11,250.00
37	Seal Existing Drainage Structure	EA	25	\$ 650.00	\$ 16,250.00	\$ 80.00	\$ 2,000.00	\$ 350.00	\$ 8,750.00
38	Remove Existing Concrete Curb & Gutter (includes disposal of material)	LF	1000	\$ 7.50	\$ 7,500.00	\$ 4.00	\$ 4,000.00	\$ 3.00	\$ 3,000.00
39	Construct New Type A Concrete Curb (as per FDOT Design Standards)	LF	200	\$ 22.00	\$ 4,400.00	\$ 34.00	\$ 6,800.00	\$ 16.00	\$ 3,200.00
40	Construct New Type B Concrete Curb (as per FDOT Design Standards)	LF	200	\$ 24.00	\$ 4,800.00	\$ 34.00	\$ 6,800.00	\$ 16.00	\$ 3,200.00
41	Construct New Type D Concrete Curb (as per FDOT Design Standards)	LF	200	\$ 17.00	\$ 3,400.00	\$ 31.00	\$ 6,200.00	\$ 18.00	\$ 3,600.00
42	Construct New Type E Median Curb (as per FDOT Design Standards)	LF	500	\$ 18.50	\$ 9,250.00	\$ 22.00	\$ 11,000.00	\$ 16.00	\$ 8,000.00
43	Construct New Type F Curb & Gutter (as per FDOT Design Standards)	LF	800	\$ 27.00	\$ 21,600.00	\$ 23.00	\$ 18,400.00	\$ 25.00	\$ 20,000.00
44	Construct New Type Drop Curb (as per FDOT Design Standards)	LF	300	\$ 15.00	\$ 4,500.00	\$ 25.00	\$ 7,500.00	\$ 16.00	\$ 4,800.00
45	Remove Existing Sidewalk (4" or 6" thick. Includes disposal of material)	SF	5000	\$ 2.10	\$ 10,500.00	\$ 3.50	\$ 17,500.00	\$ 1.66	\$ 8,300.00
46	Root Pruning Under Existing Sidewalk (includes root barrier installation and materials)	LF	100	\$ 1.00	\$ 100.00	\$ 6.00	\$ 600.00	\$ 25.00	\$ 2,500.00
47	Construct New 4" Sidewalk	SF	500	\$ 6.25	\$ 3,125.00	\$ 5.40	\$ 2,700.00	\$ 7.00	\$ 3,500.00
48	Construct New 6" Sidewalk/Driveway/Approach	SF	200	\$ 8.25	\$ 1,650.00	\$ 9.02	\$ 1,804.00	\$ 7.00	\$ 1,400.00
49	Pavers Driveway Removal/Restoration (includes leveling material)	SY	100	\$ 4.25	\$ 425.00	\$ 15.00	\$ 1,500.00	\$ 20.00	\$ 2,000.00
50	Concrete Driveway/Approach Removal (includes disposal of material)	SY	125	\$ 5.15	\$ 643.75	\$ 51.00	\$ 6,375.00	\$ 15.00	\$ 1,875.00
51	Sidewalk Curb Ramp (ADA compliant)	SY	150	\$ 43.00	\$ 6,450.00	\$ 51.00	\$ 7,650.00	\$ 50.00	\$ 7,500.00
52	Detectable Warning Surface (to install on ADA compliant curb ramp)	SF	10	\$ 20.00	\$ 200.00	\$ 58.30	\$ 583.00	\$ 50.00	\$ 500.00
53	Adjust Manhole Top	EA	15	\$ 400.00	\$ 6,000.00	\$ 250.00	\$ 3,750.00	\$ 250.00	\$ 3,750.00
54	Adjust Valve Boxes	EA	20	\$ 250.00	\$ 5,000.00	\$ 250.00	\$ 5,000.00	\$ 150.00	\$ 3,000.00
55	Pavement Milling (1" avg. depth)	SY	1500	\$ 5.25	\$ 7,875.00	\$ 3.08	\$ 4,620.00	\$ 7.50	\$ 11,250.00
56	Pavement Milling (2" avg. depth)	SY	1000	\$ 8.00	\$ 8,000.00	\$ 4.62	\$ 4,620.00	\$ 7.50	\$ 7,500.00
57	Roadway Excavation (saw-cutting & removal of pavement included. Not associated with drainage system installation)	CY	500	\$ 6.25	\$ 3,125.00	\$ 5.43	\$ 2,715.00	\$ 5.00	\$ 2,500.00
58	Type B - Stabilization (12") (Min. LBR 40)	SY	1000	\$ 8.25	\$ 8,250.00	\$ 2.46	\$ 2,460.00	\$ 4.50	\$ 4,500.00
59	Rework Limerock Base	SY	1000	\$ 11.00	\$ 11,000.00	\$ 2.47	\$ 2,470.00	\$ 8.00	\$ 8,000.00
60	Furnish and Install 8" Limerock Base (includes placement and compaction)	SY	1000	\$ 13.75	\$ 13,750.00	\$ 9.98	\$ 9,980.00	\$ 25.00	\$ 25,000.00
61	Asphalt Leveling Course	TON	50	\$ 145.00	\$ 7,250.00	\$ 121.00	\$ 6,050.00	\$ 130.00	\$ 6,500.00
62	Superpave Asphalt Concrete (Traffic C)	TON	800	\$ 165.00	\$ 132,000.00	\$ 130.00	\$ 104,000.00	\$ 140.00	\$ 112,000.00
63	Asphalt Concrete Friction Course, FC-9.5	TON	800	\$ 160.00	\$ 128,000.00	\$ 150.00	\$ 120,000.00	\$ 185.00	\$ 148,000.00
64	Furnish and Install Guardrail	LF	100	\$ 65.00	\$ 6,500.00	\$ 18.50	\$ 1,850.00	\$ 26.00	\$ 2,600.00
65	Guardrail Removal	LF	100	\$ 20.00	\$ 2,000.00	\$ 2.00	\$ 200.00	\$ 15.00	\$ 1,500.00
66	Thermoplastic Remove	SF	500	\$ 2.00	\$ 1,000.00	\$ 2.20	\$ 1,100.00	\$ 5.00	\$ 2,500.00
67	Thermoplastic Standard White Skip 6" Traffic Stripe	LF	1000	\$ 1.25	\$ 1,250.00	\$ 1.20	\$ 1,200.00	\$ 1.50	\$ 1,500.00
68	Thermoplastic Standard White Solid 6" Traffic Stripe	LF	1000	\$ 1.25	\$ 1,250.00	\$ 1.20	\$ 1,200.00	\$ 1.50	\$ 1,500.00
69	Thermoplastic Standard White Solid 12" Traffic Stripe	LF	1000	\$ 2.45	\$ 2,450.00	\$ 3.30	\$ 3,300.00	\$ 1.80	\$ 1,800.00
70	Thermoplastic Standard Yellow Skip 6" Stripe	LF	1000	\$ 1.25	\$ 1,250.00	\$ 1.17	\$ 1,170.00	\$ 1.50	\$ 1,500.00
71	Thermoplastic Standard Yellow Solid 6" Stripe	LF	1000	\$ 1.25	\$ 1,250.00	\$ 1.17	\$ 1,170.00	\$ 1.50	\$ 1,500.00
72	Thermoplastic Standard White Solid 24" Stripe	LF	500	\$ 4.50	\$ 2,250.00	\$ 4.95	\$ 2,475.00	\$ 3.00	\$ 1,500.00
73	Thermoplastic Standard White Flow Arrows	EA	10	\$ 250.00	\$ 2,500.00	\$ 72.00	\$ 720.00	\$ 60.00	\$ 600.00
74	Thermoplastic "Railroad Crossing" Traffic Pavement Marking	EA	6	\$ 350.00	\$ 2,100.00	\$ 220.00	\$ 1,320.00	\$ 50.00	\$ 300.00
75	Thermoplastic "Share the Right-o-Way" ("Sharrow"- bike lanes) Traffic Pavement Marking	EA	6	\$ 300.00	\$ 1,800.00	\$ 362.00	\$ 2,172.00	\$ 50.00	\$ 300.00
76	Reflective Pavement Marker (Bi-Directional White/Red)	EA	100	\$ 6.00	\$ 600.00	\$ 4.40	\$ 440.00	\$ 5.00	\$ 500.00
77	Reflective Pavement Marker (Bi-Directional Yellow/Yellow)	EA	100	\$ 6.00	\$ 600.00	\$ 4.40	\$ 440.00	\$ 5.00	\$ 500.00
78	Traffic Loop Detector Replacement	EA	5	\$ 975.00	\$ 4,875.00	\$ 1,200.00	\$ 6,000.00	\$ 1,200.00	\$ 6,000.00
79	Pollution Retardant Baffles/Skimmer	EA	25	\$ 500.00	\$ 12,500.00	\$ 231.00	\$ 5,775.00	\$ 750.00	\$ 18,750.00
80	Culvert Headwall Repair (rip-rap cement bags) (measured as front face area)	SY	100	\$ 27.50	\$ 2,750.00	\$ 89.00	\$ 8,900.00	\$ 50.00	\$ 5,000.00
81	Tree Relocation Under Specimen Size (Tree trunk diameter < 12 in)	EA	15	\$ 2,800.00	\$ 42,000.00	\$ 1,100.00	\$ 16,500.00	\$ 350.00	\$ 5,250.00
82	Tree Relocation Specimen Size (Tree trunk diameter > 12 in)	EA	5	\$ 4,000.00	\$ 20,000.00	\$ 2,750.00	\$ 13,750.00	\$ 700.00	\$ 3,500.00
Sub-Total				\$ 1,357,987.75		\$ 1,139,579.95		\$ 1,193,300.00	
Time & Material:									
Item	Description	Unit	QTY	Unit Price	Amount	Unit Price	Amount	Unit Price	Amount
83	Backhoe Loaders: JD 310 or Equivalent (includes operator)	HR	1	\$ 195.00	\$ 195.00	\$ 61.00	\$ 61.00	\$ 70.00	\$ 70.00
84	Excavator: CAT 215 or Equivalent (includes operator)	HR	1	\$ 245.00	\$ 245.00	\$ 107.00	\$ 107.00	\$ 150.00	\$ 150.00
85	Dump Truck with Operator (Minimum capacity: 10 CY)	HR	1	\$ 40.00	\$ 40.00	\$ 50.00	\$ 50.00	\$ 100.00	\$ 100.00
86	Regular Excavation	CY	1	\$ 20.00	\$ 20.00	\$ 340.00	\$ 340.00	\$ 8.00	\$ 8.00
87	3 Man Labor Crew	HR	1	\$ 65.00	\$ 65.00	\$ 60.00	\$ 60.00	\$ 80.00	\$ 80.00
88	Bricks/Cement/Tools	LS	1	\$ 200.00	\$ 200.00	\$ 1,500.00	\$ 1,500.00	\$ 350.00	\$ 350.00
Sub-Total				\$ 765.00		\$ 2,118.00		\$ 758.00	
BID TOTAL:				\$ 1,358,752.75		\$ 1,141,697.95		\$ 1,194,058.00	



# EXHIBIT “A”

**AGREEMENT BETWEEN**

**THE CITY OF DORAL**

**AND**

\_\_\_\_\_

**THIS AGREEMENT** is made between the City of Doral, Florida, a Florida municipal corporation whose address and principal place of business is 8401 NW 53 Terrace, Doral, Florida 33166, (hereinafter the "City") and \_\_\_\_\_ a Florida corporation whose address and principal place of business is: \_\_\_\_\_, (hereinafter the "Contractor"), and

**WHEREAS**, the City desires to engage the Contractor to provide construction services as specified below (the "Work").

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions contained herein, the Contractor and the City agree as follows.

**1. Scope of Services/Deliverables.**

- (a) The Contractor shall provide the Work at the unit price [ ] or lump sum price [ ] specified in **Exhibit "A" – Scope of Work** attached to this Agreement, and made a part hereof by this reference. Contractor shall be responsible for supplying all apparatus, equipment, labor, materials, means of transport, services and tools incidental or necessary to complete the Work.

**2. Term/Commencement Date and Liquidated Damages.**

- (a) Unless specified otherwise in **Exhibit "A"** the Contractor shall not commence work until the City issues Contractor a written Notice to Proceed and the Work shall be substantially completed within (**insert number of days in numerical and written form**) calendar days after the date specified in the Notice to Proceed ("Substantial Completion"), and fully completed and ready for final payment in accordance with the Agreement Documents within (**insert number of days in numerical and written form**) calendar days after the date specified in the Notice to Proceed ("Final Completion"). The City Manager may extend the term of this Agreement up to an additional sixty (60) days at his sole discretion based upon the recommendation of the City's Community Services Director, City Engineer or Utilities Director.
- (b) Contractor agrees that time is of the essence and Contractor shall complete each deliverable for the Work within the timeframes set forth in **Exhibit "A"**, unless extended by the City Manager. The City shall issue a written notice identifying the date the Work is deemed fully complete which shall be the Final Completion date.
- (c) 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 herein, plus any approved extensions thereof allowed by the City. The Contractor also recognizes that the damages which the City will incur if the Work is not substantially completed on time and/or fully completed on time are not readily ascertainable at the time this Agreement is entered into, and the Contractor recognizes the difficulties involved in proving the actual loss suffered by City if the Work is not substantially completed on time and/or fully completed on time. Accordingly, instead of requiring any such proof, City and Contractor agree that as liquidated damages to compensate the City, and not as a penalty for delay or as an incentive to complete on time, Contractor shall pay City (insert amount of liquidated damages here) for each calendar day that expires after the time specified for Substantial Completion of the Work. After Substantial Completion, if Contractor fails to fully complete the Work within the time specified for Final Completion and readiness for final payment or any proper extension thereof granted by City, Contractor shall pay City (insert amount of liquidated damages here that is less than the liquidated damages amount above) for each calendar day that expires after the time specified for Final Completion and readiness for final payment. Contractor agrees that the liquidated damage amounts specified herein bear a reasonable relationship to the actual damages to be suffered due to public inconvenience and damage to the City's reputation if the Contractor fails to substantially complete and/or fully complete the Work on time. The liquidated damages are not in compensation for any other damages, and expressly exclude damages for completion contractor expenses, lost/unrealized revenue, financing costs, professional services, attorney fees, and/or additional City staffing that may be incurred if the Work is not substantially completed on time and/or fully completed on time. All liquidated damages amounts will continue to be charged if the Contractor abandons the Work, or is terminated, and the Work is completed by another party.

- (d) Should the Substantial Completion and/or Final Completion and acceptance of Work, together with any modification or additions, be delayed beyond the time for performance set above because of lack of performance by the Contractor, it is understood and agreed that aside from any liquidated damages, the Contractor shall be liable to the City for all actual additional costs and/or losses incurred by the City including, but not limited to, completion contractor expenses, lost/unrealized revenue, financing costs, professional services, attorney fees, and/or additional City staffing that incurred because the Work was not substantially completed on time and/or fully completed on time.
- (e) Monies due to the City for liquidated damages and/or actual damages 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.

### **3. Compensation and Payment.**

- (a) For the purpose of developing the values to be paid on a monthly basis, Contractor shall submit a Schedule of Values to be reviewed and approved by the City at least thirty (30) days before the first progress payment request. This Schedule of Values shall constitute the values of each unit within each category that will be paid for the Work (see, Application for

Payment, Instructions "General Information").

- (b) The Contractor shall invoice the City on a monthly basis. All invoices shall provide a detailed statement of the Work performed by Contractor for the period of time covered by the invoice. Contractor shall use the form attached hereto as Exhibit "B," or such other form as may be provided by City from time to time, which is to be used by Contractor in requesting progress or final payments and which is to include such supporting documentation as is required by the Agreement Documents. The City will withhold 10% of each Pay Application as retainage which shall be paid upon Final Completion of the Work.
- (c) Each application for partial payment shall include partial lien/bond releases from all subcontractors and suppliers and a sworn statement by Contractor that partial payments received from City for the Work have been applied by Contractor to discharge in full all of Contractor's obligations, including payments to subcontractors and suppliers, stated in prior applications for payment. If payment has been withheld from a subcontractor and/or supplier the sworn statement shall state the reasons for the nonpayment. All partial payment requests shall be accompanied by consents of surety for each subcontractor and supplier.
- (d) The final application for payment shall be accompanied by all documentation called for in the Agreement Documents, together with complete and legally effective releases and/or waivers (satisfactory to City) of all liens and claims arising out of or in connection with the Work and consent of the surety, if any, to final payment. If any subcontractor or supplier fails to furnish a sub-tier release, Contractor shall provide the City with a sworn written explanation for why the subcontractor or supplier has not been paid. The City may require the Contractor to provide security to ensure all disputed and/or undisputed amounts owed are paid; or withhold the disputed and/or undisputed amounts owed from the final payment until such time as the final releases and consents of surety for each subcontractor and supplier.
- (e) The City shall pay Contractor in accordance with the Florida Prompt Payment Act. When the Contractor believes the Work is substantially complete, the Contractor shall notify the City and within 15 calendar days the parties shall create and review a single draft punch list of items to be completed in order for the Work to be fully complete. The City shall review the draft punch list and within 5 days of being provided with the draft punch list, the City shall provide the Contractor with the Final Punch list of work to be completed for the Work to be deemed fully complete.
- (f) If a dispute should occur regarding an invoice submitted, the City Manager may withhold payment of the disputed amount and may pay to the Contractor the undisputed portion of the invoice. Upon written request of the Finance Director, the Contractor shall provide written documentation to justify the invoice. Any compensation disputes shall be decided by the City Manager whose decision shall be final.
- (g) All payments shall only be from appropriations budgeted on an annual basis.

4. **Subcontractors.**

- (a) The Contractor shall be responsible for all payments to any subcontractors and shall maintain responsibility for all work related to the Work.
- (b) Any subcontractors used on the Work must have the prior written approval of the City Manager and be properly licensed and insured in the same amounts as the Contractor.

5. **City's Responsibilities.**

- (a) Upon request, if available, the City shall furnish maps, plans, studies, reports and other information regarding anticipated field conditions readily available and in the City's possession.
- (b) The City shall arrange for access to and make all provisions for Contractor to enter upon real property as required for Contractor to inspect the site and perform the Work as may be requested in writing by the Contractor.

6. **Contractor's Responsibilities.**

- (a) Contractor shall exercise the same degree of care, skill and diligence in the performance of the Work as is ordinarily provided by a professional under similar circumstances. If at any time during the term of this Agreement or within one year from the completion of the Work, it is determined that the Contractor's deliverables are incorrect, defective or fail to conform to the Scope of Work or perform as intended, upon written notification from the City Manager, the Contractor shall at Contractor's sole expense, immediately correct the Work.
- (b) Contractor and its subcontractors shall comply with all applicable laws and regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall develop and maintain all necessary safeguards for such safety and protection. Contractor shall notify owners of adjacent public and private property and of underground facilities and other utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property. All damage, injury, or loss to any property caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be immediately remedied by Contractor. Contractor's duties and responsibilities for safety and for protection of the Work shall continue until such time as all the Work is completed and the City has made final payment to Contractor.
- (c) On a daily basis during the course of the Work, Contractor shall maintain the site free of debris and dust so as to minimize any inconvenience to surrounding properties. Upon completion of the Work, Contractor shall remove all apparatus, debris, equipment, materials, and tools created or used to construct the Work, and except for the Work or as otherwise directed by the City return the site in the same condition as at the beginning of the Work.
- (d) If the Work will create any obstructions, road closures or traffic impacts, Contractor shall

provide the City and surrounding property owners with no less than seventy-two (72) hours prior notice of the anticipated or planned obstructions, road closures or traffic impacts.

7. **Termination.**

- (a) The City Manager without cause may terminate this Agreement upon thirty (30) days written notice to the Contractor, or immediately with cause.
- (b) Unless directed otherwise in writing by the City Manager, upon receipt of the City's written notice of intent to terminate or notice of actual termination, Contractor shall stop the Work.
- (c) In the event of termination by the City, the Contractor shall be paid for all Work accepted by the City Manager up to the date of termination.
- (d) The Contractor shall transfer all books, records, reports, working drafts, documents, maps, and data properly indexed and labeled pertaining to the Work to the City, in a hard copy and/or electronic format (as specified by the City) within 14 days from the date of the written notice of termination or the date of expiration of this Agreement.

8. **Insurance.**

The Contractor shall secure and maintain throughout the duration of this Agreement insurance of such type and in such amounts as required by the City. The underwriter of such insurance shall be qualified to do business in the State of Florida and have agents upon whom service of process may be made in the State of Florida. If requested by the City Manager, the insurance coverage shall be primary insurance with respect to the City, its officials, employees, agents and volunteers. The insurance coverage shall include a minimum of:

9. **Nondiscrimination.**

- (a) During the term of this Agreement, Contractor shall not discriminate against any of its employees or applicants for employment because of their race, color, religion, sex, or national origin, and to abide by all Federal and State laws regarding nondiscrimination.

10. **Agreement Documents.**

The Agreement 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 Agreement as though physically attached as a part thereof:

Change Orders

Agreement

Exhibits to the Agreement

Bid Documents (Addendum, Invitation to Bid/RFQ, Instructions to Bidders/Proposers, Proposal Form provided by Contractor, Notice of Award and Notice to Proceed);

CONTRACTOR AGREES THAT THERE IS NO IMPLIED OR EXPRESS WARRANTY OF CONSTRUCTABILITY WITH REGARD TO THE WORK OR DESIGN ENCOMPASSED BY THE AGREEMENT DOCUMENTS.

11. **Attorneys' Fees and Waiver of Jury Trial.**

- (a) If either the City or Contractor is required to enforce the terms of the Agreement by court proceedings or otherwise, whether or not formal legal action is required, the parties shall bear their own attorney fees, costs and expenses, at the trial and appellate level.
- (b) In the event of any litigation arising out of this Agreement, each party hereby knowingly, irrevocably, voluntarily, and intentionally waives its right to trial by jury.

12. **Indemnification.**

- (a) **General Indemnity.** Contractor shall indemnify and hold harmless the City, its officers, and employees, from or on account of all claims, damages, losses, liabilities and expenses, direct, indirect or consequential, including, but not limited to, fees and charges of engineers, architects, attorney's, consultants and other professionals and trial and appellate court and arbitration costs arising out of or resulting from the performance of the Work, excluding claims arising from the sole negligence of City. Such indemnification shall specifically include but not be limited to claims, damages, losses and expenses arising out of or resulting from (i) any and all bodily injuries, sickness, death, disease; (ii) injury to or destruction of real property or tangible personal property, be it publicly or privately owned, including the loss of use resulting therefrom; (iii) other such damages, liabilities or losses received or sustained by any person or persons during or on account of any operations connected with the construction of the Work including the warranty period; (iv) the use of any improper materials; (v) any construction defect including patent defects; (vi) any act or omission of Contractor or his Subcontractors, agents, servants or employees; (vii) the violation of any federal, state, county or City laws, ordinances or regulations by Contractor, his Subcontractors, agents, servants or employees; (viii) the breach or alleged breach by Contractor of any term of this Agreement, including the breach or alleged breach of any warranty or guarantee.
- (b) **Defense.** In the event that any claims are brought or actions are filed against the City that are encompassed by the Contractor's duty to indemnify as stated in this Agreement, the Contractor agrees to defend against all claims and actions brought against the City regardless of whether such claims or actions are rightfully or wrongfully brought or filed. City reserves the right to select its own legal counsel to conduct any defense in any such proceedings and all costs and fees associated therewith including any costs or fees of an appeal shall be the responsibility of Contractor.
- (c) **Specific Indemnity.** Contractor shall indemnify and hold harmless the City for liability for damages to persons or property caused in whole or in part by any act, omission, or default of the City, its officers, directors, agents, or employees arising from the Agreement or its performance. Such indemnification shall not include claims of, or damages resulting from, gross negligence, or willful, wanton or intentional misconduct of the City or its officers, directors, agents or employees, or for statutory violation or punitive damages except and to the extent the statutory violation or punitive damages are caused by or result from the acts or omissions of the Contractor or any of the Contractors, subcontractors, sub-subcontractors, materialmen, or agents of any tier or their respective employees. The extent of the indemnification shall be limited to \$5,000,000 which the parties agree bears a reasonable commercial relationship to the contract. The monetary limitation on the extent of the indemnification provided to the City shall not be less than \$1 million per occurrence.

- (d) Payment of Losses. Contractor shall pay all claims, losses, liens, settlements or judgments of any nature whatsoever, excluding only those in which the damages arose out of the sole negligence of City, in connection with the foregoing indemnifications, including, but not limited to, reasonable attorney's fees and costs to defend all claims or suits in the name of City when applicable.
- (e) Contractor's indemnification shall not be limited to the amount of comprehensive general liability insurance which Contractor is required to obtain under the Agreement. Nothing contained herein is intended nor shall it be construed to waive City's rights and immunities under the common law or Section 768.28 *Florida Statutes*, as amended from time to time. This obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party described in this Section and its subparts.
- (f) The provisions of this section shall survive termination of this Agreement.

13. Notices/Authorized Representatives.

- (a) Any notices required by this Agreement shall be in writing and shall be deemed to have been properly given if transmitted by hand-delivery, by registered or certified mail with postage prepaid return receipt requested, or by a private postal service, addressed to the parties (or their successors) at the following addresses:

For the City:                Joe Carollo, City Manager  
                                     City of Doral, Florida  
                                     8401 NW 53 Terrace  
                                     Doral, Florida 33166

With a Copy to:            John Herin  
                                     City Attorney  
                                     GrayRobinson, P.A.  
                                     401 E. Las Olas Blvd., Suite 1850  
                                     Ft. Lauderdale, Florida 33301

For The Contractor: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

14. Governing Law.

- (a) This Agreement shall be construed in accordance with and governed by the laws of the State of Florida. Exclusive venue for any litigation arising out of this Agreement shall be in Monroe County, Florida, Middle Keys Division of the Circuit Court or the Federal Southern District of Florida.

15. **Entire Agreement/Modification/Amendment.**

- (a) This writing contains the entire Agreement of the parties and supersedes any prior oral or written representations. No representations were made or relied upon by either party, other than those that are expressly set forth herein.
- (b) No agent, employee, or other representative of either party is empowered to modify or amend the terms of this Agreement, unless executed with the same formality as this document. This Agreement may be amended to provide for additions, deletions, and revisions in the Work or to modify the terms and conditions thereof via a written Change Order, in the form attached hereto as Exhibit "C," or such other form as may be provided by City from time to time.

16. **Ownership and Access to Records and Audits.**

- (a) All records, books, documents, maps, data, deliverables, papers, and financial information (the "Records") that result from the Contractor providing services to the City under this Agreement shall be the property of the City. The Records shall be properly indexed and labeled.
- (b) The City Manager or his designee shall, during the term of this Agreement and for a period of three (3) years from the date of termination of this Agreement, have access to and the right to examine and audit any Records of the Contractor involving transactions related to this Agreement.
- (c) The City may terminate this Agreement for refusal by the Contractor to allow access by the City Manager or his designee to any Records pertaining to work performed under this Agreement that are subject to the provisions of Chapter 119, Florida Statutes.

17. **Nonassignability.**

- (a) This Agreement shall not be assignable by Contractor unless such assignment is first approved by the City Manager. The City is relying upon the apparent qualifications and personal expertise of the Contractor, and such firm's familiarity with the City's area, circumstances, and desires.

18. **Severability.**

- (a) If any term or provision of this Agreement shall to any extent be held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each remaining term and provision of this Agreement shall be valid and be enforceable to the fullest extent permitted by law.

19. **Independent Contractor.**

- (a) The Contractor and its employees, volunteers and agents shall be and remain independent

contractor and not agents or employees of the City with respect to all of the acts and services performed by and under the terms of this Agreement. This Agreement shall not in any way be construed to create a partnership, association or any other kind of joint undertaking, enterprise or venture between the parties.

20. **Compliance with Laws.**

- (a) The Contractor shall ensure that it, and all its subcontractors (at all tiers), comply with all federal, state and local applicable laws, ordinances, rules, regulations, and lawful orders of public authorities relating to the Work.

21. **Waiver.**

- (a) The failure of the City to object to or to take affirmative action with respect to any conduct of the other which is in violation of the terms of this Agreement shall not be construed as a waiver of the violation or breach, or of any future violation, breach or wrongful conduct.

22. **Survival of Provisions.**

- (a) Any terms or conditions of either this Agreement that require acts beyond the date of the term of the Agreement, shall survive termination of the Agreement, shall remain in full force and effect unless and until the terms or conditions are completed and shall be fully enforceable by either party.

23. **Prohibition of Contingency Fees.**

- (a) The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person(s), company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement.

24. **Counterparts.**

- (a) This Agreement may be executed in several counterparts, each of which shall be deemed an original and such counterpart shall constitute one and the same instrument.

25. **Authorization to Sign Agreement.**

- (a) The execution and delivery of this Agreement by Contractor is within Contractor's capacity and all requisite action has been taken to make this Agreement valid and binding on Contractor in accordance with its terms.

26. **Non-Exclusive Agreement.**

- (a) The services to be provided by the Contractor pursuant to this Agreement shall be non-exclusive and nothing herein shall preclude the City from engaging other firms to perform the same or similar services for the benefit of the City as determined in its sole and absolute discretion.



27. **Performance and Payment Bonds.**

- (a) Prior to commencing the Work identified in Exhibit "A," the Contractor shall deliver to the City Performance and Payment Bonds in the form attached hereto as Exhibit "D" securing its obligations to be performed for the Work. Each Bond shall be in an amount equal to the contract price for the Work. The Performance and Payment Bonds will cease to be effective on the date of the City's final payment for the Work. Effective immediately thereafter, Contractor shall provide a Maintenance Bond for the one year warranty period commencing on the date of the City's final payment for the Work in the amount of one hundred twenty five percent (125%) of the Work price.

28. **Continuing the Work.**

- (a) Unless directed otherwise in writing by the City Manager, Contractor shall carry on the Work and adhere to the progress schedule during all disputes or disagreements with City.

29. **Changes In The Work.**

- (a) Without invalidating the Agreement and without notice to any surety, City may, at any time or from time-to-time, order additions, deletions, or revisions in the Work by a Written Amendment or Change Order. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved.
- (b) The Contract Price may only be changed by a written Change Order. Any claim for an increase or decrease in the Contract Price shall be based on written notice of intent to claim delivered to the City promptly [but in no event later than three (3) business days after the first occurrence of the event giving rise to the amount of the claim]. Contractor shall deliver to the City a good faith estimate of the cost and time impacts caused by the claim causing event within seven (7) calendar days of the first occurrence of the event giving rise to the claim. Within seven (7) calendar days of the conclusion of the claim causing event, but no later than the Substantial Completion date, Contractor shall deliver to the City a full and complete written claim identifying all costs and time impacts that the Contractor believes should be paid due to the claim causing event and shall include full and final substantiation for all price and time adjustments. The City Manager will review the claim and make a decision on the request. The City Manager's decision will be final unless within seven (7) calendar days of the date of the City Manager's decision the Contractor provides the City with written notice expressly stating that the Contractor disputes the decision and intends to pursue the matter via litigation. Failure by Contractor to strictly comply with the provisions of this article will result in a waiver of the claim.

30. **Subsurface Conditions**

- (a) Information shown on the Drawings and/or indicated in the Agreement Documents as to the location of existing utilities and subsurface conditions has been prepared from the most reliable data available to the City. This information is not guaranteed, however, and it shall be the Contractor's responsibility to determine the location, character and depth of existing utilities. The City expressly disclaims any warranty as to the underground conditions to be encountered. The Contractor should not rely on locations, condition, or quantity of

subsurface structures or conditions depicted on drawings, as the locations, condition, and quantities are approximations.

31. **Compensation for Delay.**

- (a) NO CLAIM FOR DAMAGES OR ANY CLAIM OTHER THAN FOR AN EXTENSION OF TIME SHALL BE MADE OR ASSERTED AGAINST THE CITY BY REASON OF ANY DELAYS, DISRUPTION, INTERFERENCE, OR HINDRANCE (collectively "Delay"). Notwithstanding anything to the contrary contained in the Agreement Documents, the Contractor shall not be entitled to additional compensation for any Delay unless the Delay shall have been caused by acts constituting willful or intentional interference by the City with the Contractor's performance of the Work, and then only where such acts continue after Contractor's written notice to the City of such interference.

**[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]**

**IN WITNESS WHEREOF**, the parties have executed this Agreement on the respective dates under each signature. The City, signing by and through its City Manager, attested to by its City Clerk, duly authorized to execute same; and by Contractor by and through its President, who has been duly authorized to execute same.

**ATTEST:**

**CITY OF DORAL**

\_\_\_\_\_  
Barbara Herrera, City Clerk

By: \_\_\_\_\_  
Joe Carollo, City Manager

Date: \_\_\_\_\_

**APPROVED AS TO FORM AND LEGALITY FOR THE USE**

**AND RELIANCE OF THE CITY OF DORAL, FLORIDA ONLY:**

\_\_\_\_\_  
City Attorney

**CONTRACTOR**

By: \_\_\_\_\_

\_\_\_\_\_  
Printed Name & Title

Date: \_\_\_\_\_